

# Exhibit L - Kasey Kirkegard Deposition

Detective Kasey Kirkegard ~ February 6, 2019  
\* \* \* Videotaped Deposition \* \* \*

Page 247

1 CERTIFICATE OF REPORTER

2 I, the undersigned, a Certified Shorthand  
3 Reporter of the State of Nevada, do hereby certify:

4 That the foregoing proceedings were taken  
5 before me at the time and place herein set forth;  
6 that any witnesses in the foregoing proceedings,  
7 prior to testifying, were duly sworn; that a record  
8 of the proceedings was made by me using machine  
9 shorthand which was thereafter transcribed under my  
10 direction; that the foregoing transcript is a true  
11 record of the testimony given to the best of my  
12 ability.

13 Further, that before completion of the  
14 proceedings, review of the transcript [ X ] was  
15 [ ] was not requested pursuant to NRCP 30(e).

16 I further certify I am neither financially  
17 interested in the action, nor a relative or employee  
18 of any attorney or party to this action.

19 IN WITNESS WHEREOF, I have this date  
20 subscribed my name.

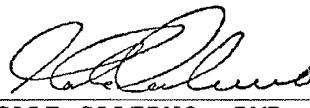
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22 Dated: February 12, 2019

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\_\_\_\_\_  
GALE SALERNO, RMR, CCR #542

Detective Kasey Kirkegard ~ February 6, 2019  
\* \* \* Videotaped Deposition \* \* \*

Page 1

1 UNITED STATES DISTRICT COURT

2 DISTRICT OF NEVADA

3

4

5

6 TRINITA FARMER, individually, )  
7 Plaintiff, )  
8 vs. ) Case No.  
9 LAS VEGAS METROPOLITAN POLICE )  
10 DEPARTMENT, a political )  
11 subdivision of the State of )  
12 Nevada; KENNETH LOPERA, )  
13 individually; TRAVIS CRUMRINE, )  
14 individually; MICHAEL TRAN, )  
15 individually; MICHAEL FLORES, )  
16 individually,  
17 Defendants. )  
18 \_\_\_\_\_ )  
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**CONDENSED  
TRANSCRIPT**

15  
16  
17 VIDEOTAPED DEPOSITION OF DETECTIVE KASEY KIRKEGARD

18 Taken on Wednesday, February 6, 2019

19 At 10:13 a.m.

20 Held at Lagomarsino Law

21 3005 West Horizon Ridge Parkway, Suite 241

22 Henderson, Nevada 89052

23

24

25 Reported By: Gale Salerno, RMR, CCR No. 542

**Detective Kasey Kirkegard ~ February 6, 2019**  
**\* \* \* Videotaped Deposition \* \* \***

2 (Pages 2 to 5)

<p style="text-align: center;">Page 2</p> <p>1 APPEARANCES:  2 For the Plaintiff, Trinita Farmer:  3 ANDRE M. LAGOMARSINO, ESQ.  Lagomarsino Law  4 3005 West Horizon Ridge Parkway  Suite 241  5 Henderson, Nevada 89052  (702) 383-2864</p> <p>6</p> <p>7 For the Defendant, Kenneth Lopera:  8 DANIEL R. MCNUTT, ESQ.  McNutt Law Firm, P.C.  9 625 South 8th Street  Las Vegas, Nevada 89101  10 (702) 384-1170</p> <p>11</p> <p>12</p> <p>13 For the Defendants, LVMPD, Crumrine, Tran and Flores:  14 CRAIG R. ANDERSON, ESQ.  Marquis Aurbach Coffing  15 10001 Park Run Drive  Las Vegas, Nevada 89145  16 (702) 942-2136</p> <p>17</p> <p>18 Also Present:  19 JESSE JAMES MATHIS, Legal Videographer  20 ELIZABETH VINSON, Legal Assistant  21 STEPHANIE MOORE, Paralegal (Present Telephonically)</p> <p>22</p> <p>23</p> <p>24</p> <p>25</p>	<p style="text-align: center;">Page 4</p> <p>1 VIDEOTAPED DEPOSITION OF DETECTIVE KASEY KIRKEGARD  2 February 6, 2019</p> <p>3 - - -</p> <p>4 THE VIDEOGRAPHER: Good morning. Today is  5 February 6th, 2019. The time is approximately  6 10:13 a.m.</p> <p>7 This begins the video deposition of  8 Kasey Kirkegard. We are located at Lagomarsino Law,  9 3005 West Horizon Ridge Parkway, Suite 241,  10 Henderson, Nevada, 89052.</p> <p>11 My name is Jess James Mathis, court  videographer with Las Vegas Legal Video.</p> <p>12 This is United States District Court,  District of Nevada, case number  13 2:18-cv-00860-GMN-VCF, in the matter of Trinita  14 Farmer versus Las Vegas Metropolitan Police  15 Department, et al., defendants.</p> <p>16 This video deposition is requested by the  attorneys for the plaintiff.</p> <p>17 And will counsel and all present please  state your appearances for the record.</p> <p>18 MR. LAGOMARSINO: So for the plaintiffs we  have Andre Lagomarsino representing plaintiff.</p> <p>19 Elizabeth Vinson and also on the telephone Stephanie  20 Moore.</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p> <p>25</p>																														
<p style="text-align: center;">Page 3</p> <table> <thead> <tr> <th style="text-align: left;">INDEX</th> <th style="text-align: right;">Page</th> </tr> </thead> <tbody> <tr> <td>Examination by Mr. Lagomarsino</td> <td style="text-align: right;">5</td> </tr> <tr> <td>Examination by Mr. Anderson</td> <td style="text-align: right;">172</td> </tr> <tr> <td>Examination by Mr. McNutt</td> <td style="text-align: right;">179</td> </tr> <tr> <td>Further Examination by Mr. Lagomarsino</td> <td style="text-align: right;">226</td> </tr> <tr> <td>Further Examination by Mr. McNutt</td> <td style="text-align: right;">243</td> </tr> </tbody> </table> <p style="text-align: center;">EXHIBITS</p> <table> <thead> <tr> <th style="text-align: left;">EXHIBIT</th> <th style="text-align: right;">Page</th> </tr> </thead> <tbody> <tr> <td>Exhibit 1 Excerpts From CIRT Statement</td> <td style="text-align: right;">82</td> </tr> <tr> <td>Exhibit 2 Excerpts From CIRT Statement of Officer Michael Flores</td> <td style="text-align: right;">86</td> </tr> <tr> <td>Exhibit 3 LVMPD, Critical Incident Review Process, Pages 400 to 406</td> <td style="text-align: right;">91</td> </tr> <tr> <td>Exhibit 4 CIRT Statement of Officer Ashley Lif</td> <td style="text-align: right;">114</td> </tr> <tr> <td>Exhibit 5 Excerpt from CIRT of Officer Michael Amburgey</td> <td style="text-align: right;">117</td> </tr> <tr> <td>Exhibit 6 Excerpts from CIRT of Sergeant Travis Crumrine</td> <td style="text-align: right;">118</td> </tr> <tr> <td>Exhibit 7 Deposition of Detective Kasey Kirkegard, July 20, 2018</td> <td style="text-align: right;">133</td> </tr> <tr> <td>Exhibit 8 LVMPD Arrest Report</td> <td style="text-align: right;">245</td> </tr> </tbody> </table>	INDEX	Page	Examination by Mr. Lagomarsino	5	Examination by Mr. Anderson	172	Examination by Mr. McNutt	179	Further Examination by Mr. Lagomarsino	226	Further Examination by Mr. McNutt	243	EXHIBIT	Page	Exhibit 1 Excerpts From CIRT Statement	82	Exhibit 2 Excerpts From CIRT Statement of Officer Michael Flores	86	Exhibit 3 LVMPD, Critical Incident Review Process, Pages 400 to 406	91	Exhibit 4 CIRT Statement of Officer Ashley Lif	114	Exhibit 5 Excerpt from CIRT of Officer Michael Amburgey	117	Exhibit 6 Excerpts from CIRT of Sergeant Travis Crumrine	118	Exhibit 7 Deposition of Detective Kasey Kirkegard, July 20, 2018	133	Exhibit 8 LVMPD Arrest Report	245	<p style="text-align: center;">Page 5</p> <p>1 MR. MCNUTT: Daniel McNutt on behalf of  2 Kenneth Lopera.</p> <p>3 MR. ANDERSON: Craig Anderson on behalf of  4 the Las Vegas Metropolitan Police Department,  5 Officers Crumrine, Tran, and Flores.</p> <p>6 THE VIDEOGRAPHER: And the witness may now  7 be sworn in by Gale Salerno for All-American Court  8 Reporters.</p> <p>9 DETECTIVE KASEY KIRKEGARD,  10 having been first duly sworn, was  11 examined and testified as follows:</p> <p>12 - - -</p> <p>13</p> <p>14 EXAMINATION</p> <p>15 BY MR. LAGOMARSINO:</p> <p>16 Q. Can you please state your full name.</p> <p>17 A. It's Kasey Kirkegard.</p> <p>18 Q. Have you ever given your deposition before?</p> <p>19 A. Yes.</p> <p>20 Q. On how many occasions?</p> <p>21 A. One.</p> <p>22 Q. And was that in this case?</p> <p>23 A. Yes.</p> <p>24 Q. Let me rephrase that. There are two cases  arising out of the death of Tashi Farmer; is that</p>
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**Detective Kasey Kirkegaard ~ February 6, 2019**  
**\* \* \* Videotaped Deposition \* \* \***

3 (Pages 6 to 9)

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<p>1        your understanding?</p> <p>2        A. Correct. Yes.</p> <p>3        Q. Was the other one your deposition in the</p> <p>4        case brought by the children?</p> <p>5        A. Yes, it was.</p> <p>6        Q. Have you ever given your deposition on any</p> <p>7        other occasion in your life?</p> <p>8        A. No.</p> <p>9        Q. You understand that you've been placed</p> <p>10      under oath?</p> <p>11      A. Yes.</p> <p>12      Q. Have you ever testified in a courtroom?</p> <p>13      A. Yes.</p> <p>14      Q. How many occasions?</p> <p>15      A. Over my 11-year career with Metro, probably</p> <p>16      50, 60.</p> <p>17      Q. So the oath that you took today is the same</p> <p>18      oath that you would take in a court of law. Do you</p> <p>19      understand that?</p> <p>20      A. Yes.</p> <p>21      Q. Everything that's being said today is being</p> <p>22      taken down by the court reporter. We do have a</p> <p>23      videographer here but the official record is that of</p> <p>24      the court reporter.</p> <p>25      It's very difficult for the court reporter</p>	<p>1        A. Yes.</p> <p>2        Q. We're going to be going for some time</p> <p>3        today. I have a lot of questions and I guarantee I'm</p> <p>4        going to flub up some questions or mix up the words</p> <p>5        or ask a question that maybe not be understandable.</p> <p>6        If you don't understand a question, please</p> <p>7        tell me and I'll be happy to rephrase it. Okay?</p> <p>8        A. Okay.</p> <p>9        Q. From time to time, the lawyers in the room</p> <p>10      are going to be making objections. They are not</p> <p>11      doing that to be obstructive. It's usually just</p> <p>12      because they don't like the question. It's just a</p> <p>13      joke.</p> <p>14      But usually they're finding a fault with</p> <p>15      the question and there's not a judge here to rule on</p> <p>16      it. So allow them to make the objection and if you</p> <p>17      understand the question, go ahead and answer it.</p> <p>18      Okay?</p> <p>19      A. Okay.</p> <p>20      Q. What have you done to prepare yourself for</p> <p>21      today's deposition?</p> <p>22      A. I've met with Craig Anderson and gone over</p> <p>23      my last deposition that I gave. Went over the facts</p> <p>24      of this case and just kind of went over what I knew,</p> <p>25      part of my investigation of this case.</p>
<p>1        to take down two people talking at once. So even</p> <p>2        though it's perfectly acceptable to somehow</p> <p>3        anticipate a question in real life, I would ask that</p> <p>4        you allow me to finish my question and I will allow</p> <p>5        you to finish your answer. Is that okay?</p> <p>6        A. Yes.</p> <p>7        Q. After the deposition is completed, you'll</p> <p>8        have an opportunity to make changes to your</p> <p>9        deposition transcript. It's very common to make</p> <p>10      changes of spelling of a minor nature. However, if</p> <p>11      you make a change of a major nature or anything</p> <p>12      substantive, we'll have an opportunity to comment on</p> <p>13      that at the time of trial. Do you understand?</p> <p>14      A. Yes.</p> <p>15      Q. I'm sure you understand the difference</p> <p>16      between a guess and an estimate?</p> <p>17      A. Yes, I do.</p> <p>18      Q. We just want you to give -- you're allowed</p> <p>19      to give estimates today but no guesses. Okay?</p> <p>20      A. Yes, sir.</p> <p>21      Q. From time to time, you may give an answer</p> <p>22      that's indicated by body language or "uh-huh" or</p> <p>23      "huh-uh." If I ask you, "Is that a yes" or "is that</p> <p>24      a no," I'm not trying to be rude. I'm just trying to</p> <p>25      make sure we have a clear record. Do you understand?</p>	<p>1        Q. When did you meet with Mr. Anderson?</p> <p>2        A. It was actually over the phone.</p> <p>3        Q. And approximately how long did that</p> <p>4        conversation take?</p> <p>5        A. About 20 minutes.</p> <p>6        Q. What did you do to go over the facts of</p> <p>7        this case?</p> <p>8        A. Went over -- had a copy of my deposition</p> <p>9        that I gave from the last time. Went over that.</p> <p>10      Went over my case file for this entire case.</p> <p>11      Q. Did you watch the video?</p> <p>12      A. No, I did not.</p> <p>13      Q. Did you watch any video?</p> <p>14      A. Are you referring to Lopera body-worn</p> <p>15      camera?</p> <p>16      Q. Lopera or any other officer.</p> <p>17      A. No, I have not.</p> <p>18      Q. During your investigation, did you watch</p> <p>19      all the body cam footage?</p> <p>20      A. Yes, I did.</p> <p>21      Q. So I've also received a copy of your</p> <p>22      deposition transcript from the other case. I'm going</p> <p>23      to ask some questions today I believe I know the</p> <p>24      answer to but I just want to make sure we have a</p> <p>25      record for this case.</p>

**Detective Kasey Kirkegaard ~ February 6, 2019**  
**\* \* \* Videotaped Deposition \* \* \***

4 (Pages 10 to 13)

Page 10	Page 12
<p>1       A. Okay.</p> <p>2       Q. I understand you went to Centennial?</p> <p>3       A. High school, yes, sir.</p> <p>4       Q. And what year did you graduate?</p> <p>5       A. 2003.</p> <p>6       Q. After going to Centennial, did you continue your education?</p> <p>7       A. Yes, I did.</p> <p>8       Q. What year did you continue your education?</p> <p>9       A. On the following year, following semester,</p> <p>10      I went to Northern California for soccer and came back and went to UNLV.</p> <p>11      Q. Was the school in northern California?</p> <p>12      A. Say that again?</p> <p>13      Q. What was the name of the school?</p> <p>14      A. The name of the school was Lassen College up in Northern California.</p> <p>15      Q. Just for the record, could you please spell that?</p> <p>16      A. L-a-s-s-e-n.</p> <p>17      Q. And what years were you at Lassen?</p> <p>18      A. I was there from 2000 -- I guess the fall of 2003 into spring of 2004. So for one year.</p> <p>19      Q. Did you have a major while you were there?</p> <p>20      A. Yes.</p>	<p>1       break, what period of time was that?</p> <p>2       A. It was -- let's see. I started at the</p> <p>3       academy in 2007. So I think right up until 2007 I</p> <p>4       started the academy, I had just a few credits left.</p> <p>5       And then in 2014 I finished it up. So maybe that gap</p> <p>6       between 2007 to 2014.</p> <p>7       Q. Why did you want to go into psychology?</p> <p>8       A. It had -- I had an interest in it. And</p> <p>9       some of the classes I took were very interesting to</p> <p>10      me and the fact that I wanted to go into law</p> <p>11      enforcement, so it kind of ran side by side.</p> <p>12      Q. Did you want to be like a profiler?</p> <p>13      A. Actually, forensic psychology was what</p> <p>14      really interested me.</p> <p>15      Q. Okay. So you received your degree in 2014?</p> <p>16      A. Yes, sir.</p> <p>17      Q. Do you have a postgraduate degree?</p> <p>18      A. No, I do not.</p> <p>19      Q. You went to the police academy in 2007?</p> <p>20      A. Uh-huh, yes, sir.</p> <p>21      Q. And when did you first become commissioned as a police officer?</p> <p>22      A. Well, if I understand you correctly, in</p> <p>23      2007 we were in the academy. And then I graduated in</p> <p>24      May of 2008.</p>
<p>1       Q. What was it?</p> <p>2       A. I don't recall.</p> <p>3       Q. I had a few majors during my time at</p> <p>4       school. Some undeclared.</p> <p>5       So you came back to UNLV?</p> <p>6       A. Yes, sir.</p> <p>7       Q. And did you start back at UNLV in the fall</p> <p>8       of 2004?</p> <p>9       A. Yes.</p> <p>10      Q. Did you play soccer for UNLV?</p> <p>11      A. No, I did not.</p> <p>12      Q. Did you have a major at UNLV?</p> <p>13      A. Yes, I did.</p> <p>14      Q. What was your major?</p> <p>15      A. Psychology. Or liberal arts, but</p> <p>16      psychology was underlying.</p> <p>17      Q. Spent a lot of time in the humanities</p> <p>18      building?</p> <p>19      A. Yes.</p> <p>20      Q. What year did you graduate from UNLV?</p> <p>21      A. 2014.</p> <p>22      Q. Did you take some time off during school?</p> <p>23      A. I did.</p> <p>24      Q. Okay. When you first started at UNLV in</p> <p>25      the fall of 2004, to the time that you first took a</p>	<p>1       Q. What jobs did you hold prior to becoming a</p> <p>2       police officer after high school? I've got skydiving</p> <p>3       here.</p> <p>4       A. While I was in college at Lassen, I worked</p> <p>5       at a daycare facility helping with kids. And that</p> <p>6       was to help to pay off part of the scholarship</p> <p>7       because I had a partial scholarship.</p> <p>8       When I came back home to Las Vegas to</p> <p>9       attend UNLV, I worked at -- in Boulder City at</p> <p>10      Skydive Las Vegas.</p> <p>11      Q. Any other jobs?</p> <p>12      A. I don't remember. It might have been</p> <p>13      something little in between. But nothing...</p> <p>14      Q. You were a ground school instructor?</p> <p>15      A. Yes.</p> <p>16      Q. What is that?</p> <p>17      A. Prior to someone coming in to do a tandem</p> <p>18      jump, which is two people jumping with an instructor,</p> <p>19      an instructor and another person, we go over some</p> <p>20      ground rules, per se. We explain the proper body</p> <p>21      position to take, what to expect, what not to expect,</p> <p>22      things to do, what not to do.</p> <p>23      And just kind of walk them through the</p> <p>24      process of the actual skydive experience itself.</p> <p>25      Q. When you graduated from the police academy,</p>

**Detective Kasey Kirkegaard ~ February 6, 2019**  
**\* \* \* Videotaped Deposition \* \* \***

5 (Pages 14 to 17)

Page 14	Page 16
<p>1 what was your first assignment?      2 A. I was assigned to the Bolden Area Command      3 as a police officer.      4 Q. That's PO I?      5 A. Yes, sir.      6 Q. How long did you remain as a PO I?      7 A. I believe it's 18 months. But I could be      8 wrong.      9 Q. So you were a patrol officer in the Bolden      10 Area Command for three years?      11 A. Yes, sir.      12 Q. After that command, what was your next      13 assignment?      14 A. I believe it was either PSU, which is a      15 problem-solving unit, or I went to air support. I      16 can't remember. I believe it was PSU first and then      17 I went into air support.      18 Q. What's a problem-solving unit?      19 A. So what that is is like what we consider to      20 be a junior step to becoming a detective. You would      21 take problems within that area command, that being      22 violent robberies, drug crimes, drugs, everything but      23 homicide or attempted murders.      24 Q. And what kind of problems would you solve?      25 A. Narcotics, violent crimes. Problem areas</p>	<p>1 A. At the time, it has since changed, but it      2 was the north boundary would have been Cheyenne,      3 south boundary would have been DI. East boundary      4 would have been I-15 and west would have been Jones.      5 Q. So as part of your job responsibilities in      6 that PSU unit, you would offer search warrants; is      7 that correct?      8 A. Yes, sir.      9 Q. And you would help to execute search      10 warrants?      11 A. Yes, sir.      12 Q. Would that command have encompassed Bonanza      13 and Eastern?      14 A. No.      15 Q. After you were in the PSU unit, what was      16 your next assignment?      17 A. It would have been air support.      18 Q. And what did you do in air support?      19 A. I was what's called a TFO, or tactical      20 flight observer for the helicopter.      21 Q. And what were your job responsibilities in      22 that regard?      23 A. Assist patrol.      24 Q. So you would sit in the copilot seat and      25 assist ground units?</p>
<p style="text-align: center;">Page 15</p> <p>1 that were reoccurring.      2 Q. So if I'm interpreting that correctly, if      3 there was a particular type of crime that was      4 occurring more than normal, you would take a look at      5 maybe why that was happening and try to take steps to      6 prevent that?      7 A. Yes, sir.      8 Q. Make recommendations?      9 A. Yes, sir.      10 Q. How long were you with the PSU?      11 A. I believe it was -- excuse me -- two years.      12 Q. Did you solve any problems?      13 A. Sure.      14 Q. What did you solve?      15 A. I apologize, my voice.      16 Q. That's okay. Do you want some water?      17 A. I've got some, thank you.      18 A lot of narcotics sales where I was at. A      19 lot of gun crimes, gang crimes. We worked with our      20 gang unit quite a bit, our narcotics unit quite a      21 bit.      22 A couple shootings we had. Things of those      23 nature.      24 Q. What was the -- what were the boundaries of      25 that command?</p>	<p style="text-align: center;">Page 17</p> <p>1 A. Yes, sir.      2 Q. Were you also a pilot?      3 A. Not at that time, no.      4 Q. Were you ever a pilot while you were in      5 that tactical air support unit?      6 A. No. And I'm sorry, can you clarify that?      7 Q. Did you fly and operate the helicopters at      8 any time?      9 A. Yes. I was trained on landing procedures,      10 but as an actual pilot in command, no, I was never a      11 pilot in command.      12 Q. You were the second in command, SIC?      13 A. It doesn't exist, but technically.      14 Q. I got a pilot case going now.      15 MR. McNUTT: When there's only two, yeah,      16 you're second.      17 MR. LAGOMARSINO: Well, she said she      18 wasn't.      19 THE WITNESS: Not first.      20 MR. McNUTT: Because it doesn't exist.      21 MR. LAGOMARSINO: Okay. I'm guessing Dan      22 has more flight experience than I do.      23 MR. McNUTT: I'm baggage that talks.      24 BY MR. LAGOMARSINO:      25 Q. Did you do that for about six months?</p>

**Detective Kasey Kirkegaard ~ February 6, 2019**  
**\* \* \* Videotaped Deposition \* \* \***

6 (Pages 18 to 21)

<p style="text-align:center">Page 18</p> <p>1        A. Yeah. The -- excuse me -- the TDY up there      2        was 90 days.      3        Q. And then you went back to Bolden?      4        A. Yes, sir.      5        Q. How long were you there?      6        A. Until I got pulled up to Office of Internal      7        Oversight in 2014.      8        Q. Did you apply for that position in the      9        Office of Internal Oversight?      10      A. Yes. How it came about was we were putting      11     together a class for the whole department. It was      12     part of the recommendations from DOJ and the CNA      13     report. With that, because I had -- one of my old      14     sergeants was up there, she asked for me to come up      15     and help with this class, which I did. And after      16     that, they asked if I could come up and continue the      17     same work that I was doing with the CNA process.      18      Q. Okay.      19      A. So I put an informal letter of interest in.      20      Q. Did somebody approach you first or did you      21     approach somebody first?      22      A. I actually had approached and then went to      23     inquire what it was all about.      24      Q. Who did you approach?      25      A. I was approached by two officers I used to</p>	<p style="text-align:center">Page 20</p> <p>1        a look at our department to change procedures,      2        policies and training.      3        Q. And then after they looked at the policies,      4        procedures and training, a report was issued;      5        correct?      6        A. Yes. There was several reports. There was      7        a six-month report, a yearly report and then after      8        that I believe every five years we do a public report      9        that shows what our policies and procedures are.      10      Q. So just for information-gathering purposes,      11     you turn in the initial report. And then the report      12     makes some recommendations and some findings. Six      13     months later an evaluation is done to see what the      14     progress is. And then after five years from that six      15     months, another report is issued by Metro; is that      16     correct?      17      A. Yeah. We do -- I don't know -- the      18     five-year report, I -- I don't author it. I don't      19     know much about it, I'll be honest with you, but I      20     know we had the six-month report with the CNA process      21     and the year report for the CNA process, and I was      22     heavily involved in both those two reports.      23      Q. Have you ever actually seen the five-year      24     report that was done?      25      A. It's public information, I believe, on our</p>
<p style="text-align:center">Page 19</p> <p>1        work with at Bolden Area Command about this class.      2        Q. Who were they?      3        A. It was Patrick Bert and Patrick Hughes.      4        Q. And which class?      5        A. It was a class called fair and impartial      6        policing and procedural justice.      7        Q. Who taught that class or those classes?      8        A. I did, along with a pool of instructors.      9        We had about 30 instructors. And I'm not going to be      10      able to name them all.      11      Q. You referred to DOJ or CNA report.      12      A. Yes, sir.      13      Q. Can you expand on that for the record what      14      that is?      15      A. So in 2010, we had our highest number of      16      officer-involved shootings, which was 25 for the      17      year. We knew the DOJ was coming down on our      18      department and so Sheriff Gillespie at the time went      19      to the DOJ and said, "Look, I know you guys are      20      looking at our department. What is it that I can do      21      to help reduce the number of officer-involved      22      shootings?"      23      So they came up with this collaborative      24      reform called the CNA process. And together they      25      sent down some members of the DOJ that came and took</p>	<p style="text-align:center">Page 21</p> <p>1        public website.      2        Q. Do you know if it was issued?      3        A. I do not.      4        Q. Do you know who was supposed to issue it?      5        A. I do not know.      6        Q. How long were you with the Office of      7        Internal Oversight?      8        A. I was with them for approximately a year      9        and a half to two years.      10      Q. And what were all your titles with that      11      office?      12      A. Titles or?      13      Q. I guess roles.      14      A. Roles? So we had a lot of roles. We were      15      kind of -- with the CNA report, we had to follow up      16      on the recommendations, make sure those      17      recommendations were being done. If not, we would      18      have to type up a memo that would go up our chain of      19      command as to why it wasn't feasible for our      20      department to do it, and there was two      21      recommendations that we did not do.      22      At the completion of the CNA report we      23      continued to oversee these policies and procedures      24      and training to make sure they are still being      25      followed properly.</p>

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**\* \* \* Videotaped Deposition \* \* \***

7 (Pages 22 to 25)

<p style="text-align: center;">Page 22</p> <p>1        We also worked with our CIRT team and our      2        FIT team. Any recommendations that came out of the      3        tactical review board after a certain investigation,      4        we had to ensure that those policies, training,      5        procedures were all implemented as recommendations      6        from the chairperson.</p> <p>7        Any training issues that we saw on the      8        onset of an OIS, or officer-involved shooting, or      9        critical incident, we were responsible for pushing      10      the training in a memo form. We pushed out any      11      search and seizure recommendations, any use of forces      12      that we saw that we could always get better on our      13      training.</p> <p>14      We read all use of force reports. We did a      15      lot of training within the department, getting fair      16      and impartial policing, procedural justice. Make      17      sure the whole department was trained up on that      18      including our corrections officers and all of our      19      civilians, including the academy, so any new officers      20      that were hired.</p> <p>21      And there's a lot more.</p> <p>22      Q. If I wanted to request a document or      23      information from the department about what your roles      24      were during that time, what would I ask for?</p> <p>25      A. I believe we have like an internal manual.</p>	<p style="text-align: center;">Page 24</p> <p>1        critical incidents with use of deadly force. So that      2        includes a low lethality shotgun within five yards;      3        PIT, which is the vehicle under the speeds of      4        40 miles an hour; any intentional discharge or      5        accidental; and then officer-involved shootings.</p> <p>6        Q. Do you know what incident caused the      7        shotgun policy to be revised?</p> <p>8        A. Which policy? Because it's changed a      9        couple of times.</p> <p>10      Q. Well, do you remember the Stanley Gibson      11      case?</p> <p>12      A. Yes.</p> <p>13      Q. Did that case have anything to do with that      14      policy being changed?</p> <p>15      A. I don't know. I wasn't up there at that      16      time.</p> <p>17      Q. And I think you referenced the pin      18      maneuvers?</p> <p>19      A. PIT, P-I-T.</p> <p>20      Q. P-I-T, I apologize. How did the policy      21      change there?</p> <p>22      A. I believe the speeds had changed from 45 to      23      40. And there was different times when you could use      24      it and couldn't use it, depending on the crime.</p> <p>25      Q. Are there any types of use of force at all</p>
<p style="text-align: center;">Page 23</p> <p>1        Q. You had mentioned that the -- there were      2        two recommendations that you could not implement from      3        the CNA?</p> <p>4        A. Uh-huh.</p> <p>5        Q. Which were those?</p> <p>6        A. The first of which was during      7        officer-involved shootings and we would take an      8        audio-recorded statement. They also wanted a      9        videotape, but we said we were not going to do that.</p> <p>10      And another one had something to do with      11      body cameras, and I don't recall the specifics of it.</p> <p>12      Q. Do you know why the decision was made not      13      to video?</p> <p>14      A. I do not.</p> <p>15      Q. I may have asked you this so I apologize.      16      Do you know who writes that five-year report?</p> <p>17      A. It's going to fall under the Office of      18      Constitutional Policing. And I don't know who would      19      write it. I know when they did the one year, it was      20      kind of farmed out to someone from training would      21      write on there and search and seizure would write up      22      on their end and we would put it together.</p> <p>23      But it also included any use of forces from      24      the different types of use of forces that officers      25      were involved in. Also did a quick of all of our</p>	<p style="text-align: center;">Page 25</p> <p>1        that have been banned by Metro, to your knowledge?</p> <p>2        A. I don't want to say banned, but they've      3        been modified.</p> <p>4        Q. And which ones have been modified?</p> <p>5        A. Our low lethality shotgun was modified.      6        LVNR has changed.</p> <p>7        Our use of force policy has changed, I      8        guess, in total. K-9, and that includes K-9 bites      9        have changed. And that's all I can think of right      10      now.</p> <p>11      Q. Did the LVNR policy change after the Tashi      12      Farmer incident?</p> <p>13      A. Yes.</p> <p>14      Q. Do you know of any other changes that were      15      made to the LVNR policy prior to the Tashi Farmer      16      incident?</p> <p>17      A. Yes. But I don't -- so we have a use of      18      force model that we abide by that's within policy,      19      and that has changed a number of times since I've      20      been with Metro.</p> <p>21      Q. I understand that the use of force model      22      has changed for a variety of reasons. And so that      23      may have some application to the LVNR. But I'm      24      asking a little bit more of a specific question.      25      Do you know if the LVNR policy itself had</p>

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8 (Pages 26 to 29)

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<p>1 ever been changed prior to the Tashi Farmer incident?</p> <p>2 A. I don't know.</p> <p>3 Q. If you wanted to find out, where would you</p> <p>4 check?</p> <p>5 A. Office of Internal Oversight, the</p> <p>6 constitutional policing or within training.</p> <p>7 Q. Let's get back on track. So then after</p> <p>8 Office of Internal Oversight, what was your next</p> <p>9 position?</p> <p>10 A. I was pulled over to CIRT, which is our</p> <p>11 Critical Incident Review Team.</p> <p>12 Q. When did you start with CIRT?</p> <p>13 A. August 2016.</p> <p>14 Q. And have you been with CIRT since August of</p> <p>15 2016?</p> <p>16 A. In September of 2018 I moved over to sexual</p> <p>17 assault.</p> <p>18 Q. So again, I'm generalizing a little bit,</p> <p>19 but you were with CIRT, which focuses more on</p> <p>20 internal processes. And then after you left CIRT,</p> <p>21 you went back to kind of a traditional police</p> <p>22 function in the sexual assault unit?</p> <p>23 A. Criminal investigations, yes.</p> <p>24 Q. Why did you leave CIRT?</p> <p>25 A. I wanted to expand my career in the</p>	<p>1 different aspects of CIRT and that could include</p> <p>2 PowerPoint, report writing, interviews, things of</p> <p>3 that nature.</p> <p>4 Q. Were there written materials that were</p> <p>5 utilized in your training for CIRT?</p> <p>6 A. Are you talking about like a lesson plan?</p> <p>7 Q. Yeah. Lesson plan.</p> <p>8 A. No.</p> <p>9 Q. Were there any other written materials</p> <p>10 besides lesson plans like guidelines?</p> <p>11 A. Yeah. We would have like a grammar cheat</p> <p>12 sheet, if that's what you're asking, things to help</p> <p>13 us out through our investigation. Different reports</p> <p>14 for the different conclusions that we would have for</p> <p>15 the report.</p> <p>16 Q. Would they give you examples of reports</p> <p>17 like a boilerplate to use in different situations?</p> <p>18 A. Yes. But it was with the understanding</p> <p>19 that every report is going to be different. Not</p> <p>20 everything is going to be the same. But -- so not</p> <p>21 the verbiage, the verbiage will not be the same in</p> <p>22 every report but kind of guidelines. And we also</p> <p>23 round-tabled a lot of our conclusions as well.</p> <p>24 Q. Would you use templates?</p> <p>25 A. Yes, what we call our admin report or</p>
<p>1 criminal investigations.</p> <p>2 Q. What training did you receive to work with</p> <p>3 CIRT?</p> <p>4 A. We, for CIRT --</p> <p>5 Q. Let me rephrase that. I apologize, I</p> <p>6 interrupted you there.</p> <p>7 I understand that you always apply all your</p> <p>8 training that you received since the time you</p> <p>9 graduated the academy. But aside from all of it, was</p> <p>10 there any specific training that you received to be</p> <p>11 part of CIRT?</p> <p>12 A. We did our like internal training. So we</p> <p>13 had experienced -- I don't want to say experienced,</p> <p>14 but tenured CIRT detectives who would go over Garity.</p> <p>15 Different interview interrogation techniques. We</p> <p>16 would train with our PPA, PMSA, and our PPACE.</p> <p>17 We would learn -- we'd also work closely</p> <p>18 with FIT because they did the criminal</p> <p>19 investigations. Learned what they needed from us on</p> <p>20 scene and vice-versa.</p> <p>21 Some more of the workings of CIRT is what</p> <p>22 we got trained up on.</p> <p>23 Q. And how long did that training take?</p> <p>24 A. We trained every Monday. We would do</p> <p>25 coffee with the named detective who would go over</p>	<p>1 administrative report or AR.</p> <p>2 Q. And how long did your training last before</p> <p>3 you started actually working in CIRT?</p> <p>4 A. It was kind of ran concurrent. So we</p> <p>5 would -- the first case I had, I actually sat down</p> <p>6 with, like I said, a tenured detective. Went over a</p> <p>7 fairly simple report. It was -- by simple, I mean it</p> <p>8 was one officer involved in the shooting. And</p> <p>9 together we worked through that report.</p> <p>10 I was taught what I was -- after the</p> <p>11 interviews, what we're looking for, the reasons we</p> <p>12 ask certain questions in the interviews to include</p> <p>13 the witness officers, any supervision and how to put</p> <p>14 together the report.</p> <p>15 But because I did my work with an OIO, I</p> <p>16 read a lot of the CIRT reports to put together so I</p> <p>17 knew how they worked. I knew the order that they</p> <p>18 were in.</p> <p>19 Q. Okay. In terms of an organization tree or</p> <p>20 chain of command, I guess, so to speak, was Office of</p> <p>21 Internal Oversight over CIRT or was CIRT over Office</p> <p>22 of Internal Oversight or were they kind of parallel?</p> <p>23 A. Parallel. They had a separate sergeant.</p> <p>24 Q. Who was your sergeant in CIRT during this</p> <p>25 case, the Farmer case?</p>

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9 (Pages 30 to 33)

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<p>1        A. It would have been, I believe, Sergeant  2        Kyle Ward.  3        Q. Did he have participation, to your  4        knowledge, in this Farmer case?  5        A. As far as depositions?  6        Q. Just participating in interviews or helping  7        you through presentation or --  8        A. Yes, he did.  9        Q. Kyle Ward? Okay.  10      What's your current rank?  11      A. PO II detective.  12      Q. To become a detective, did you have to take  13      a written test?  14      A. No.  15      Q. Did you have to go like through an oral  16      board?  17      A. Yes, sir.  18      Q. Tell me about the oral board process.  19      A. Once you submit your resume to the desired  20      bureau that you would like to go to, they set you up  21      with an oral board. And you go in in front of  22      three -- I believe it's two sergeants and an outside  23      sergeant, so outside the bureau that you're testing  24      for. And they run you through seven questions. A  25      lot of -- you know, tell us about your training and</p>	<p>1        issues, but some of the things that stuck out to you  2        during the -- during your presentation.  3        Q. Okay. How long did that oral board last  4        for CIRT?  5        A. They could last anywhere from probably 20  6        minutes to 30 minutes.  7        Q. You said -- so there was a different oral  8        board that you took. What was that for?  9        A. It was for sex assault.  10      Q. Okay. So was this CIRT oral board the  11      first time you took any oral board with Metro?  12      A. No.  13      Q. What was the one before that?  14      A. It would have been one to go into PSU,  15      which is more of an informal interview, so I probably  16      wouldn't even categorize that as an oral board. But  17      the one before that would have been air support.  18      Q. Okay. Do you remember who was on your oral  19      board for CIRT?  20      A. No. And I want to correct that. That oral  21      board I didn't have to go through because I was with  22      the Office of Internal Oversight. I was pulled over  23      by the lieutenant at the time, which was Kelly  24      McMahill.  25      Q. Did you do an oral board to get on to the</p>
<p>experience, what you've done to prepare for this.  Then they give you I believe it was  anywhere from three to four scenario-based questions  and how you would respond to the case.  Q. Are any of those seven questions provided  to you before you go into the oral board?  A. No.  Q. And how about the scenarios?  A. No.  Q. Do you recall any of your scenarios that  you were asked about?  A. From?  Q. The oral board.  A. From the CIRT oral board or from?  Q. That's a good question. From the CIRT oral  board. We'll start there.  A. So the CIRT oral board was a little bit  different, and the reason being we do a lot of  presentations in front of the sheriff and the  executive staff.  So part of that process was you were given  a piece of paper with some notes on it which was  mocking a case. You would read through it and then  you would have about 15 minutes to stand up and give  a quick presentation about some of the issues -- not</p>	<p>Office of Internal Oversight?  A. It was an informal interview with then  Sergeant Jamie Prossor.  Q. So just for the record, no?  A. No.  Q. Were you ever assigned to the FIT team?  A. No.  Q. Have you ever conducted a FIT interview?  A. Yes.  Q. And if you weren't assigned to the FIT  team, why would you be doing a FIT interview?  A. Because we had a 12-year-old juvenile that  was a witness in an OIS. And the FIT detective at  the time was forensically certified to do a child  interview and he needed a female to sit in. And  because I was not the CIRT case agent for that  particular OIS or office involved shooting, I sat in  that interview with him.  Q. Were you certified to conduct a child  interview?  A. Not at that time, no.  Q. So you did just slightly over two years  with CIRT?  A. Yes, sir.  Q. How many cases had you handled with CIRT</p>

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10 (Pages 34 to 37)

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<p>1 prior to the Tashi Farmer case?</p> <p>2 A. Let's see. He was May of 2017?</p> <p>3 Q. Yes.</p> <p>4 A. Probably four -- between three and five, I want to say.</p> <p>5 Q. Okay. In the -- I'll say Farmer or Brown 6 or use them interchangeably today, but what was your 7 role in that case?</p> <p>8 A. For the Lopera case?</p> <p>9 Q. Yes.</p> <p>10 A. I was the CIRT case agent for that.</p> <p>11 Q. How many case agents were there for that?</p> <p>12 A. I was the main case agent. And then I had 13 a partner who would help me write -- excuse me, not 14 write, but help me with PowerPoint.</p> <p>15 Q. Who was your partner?</p> <p>16 A. Greg Watkins.</p> <p>17 Q. Prior to the Lopera case, how many times 18 had you been the main case agent in a CIRT case?</p> <p>19 A. The three to four times -- three to five 20 times that I previously told you.</p> <p>21 Q. Do you remember which officers those cases 22 involved?</p> <p>23 A. Yes.</p> <p>24 Q. Who are they?</p>	<p>1 vehicle parked in the driveway. As -- as they came 2 by the residence, their intention was to do a 3 drive-by and get resources to the area.</p> <p>4 However, as they drove by, three people got 5 out of the vehicle. They challenged the vehicle, 6 challenged the people. They all were pronounced out and 7 the father who was inside the residence came out with 8 a gun to see what was going on.</p> <p>9 And with the gun in his hand, officers gave 10 him verbal commands to drop the gun. He raised the 11 gun in their direction and Officer McGill fired I 12 believe four to five times, but I'm not 100 percent 13 on that.</p> <p>14 Father goes back inside. There were small 15 children so I had to end up calling 911 saying that 16 their dad had just been shot. Two and two together, 17 realized it was the police that were outside. They 18 make entry, go in and find, I believe, the father was 19 deceased.</p> <p>20 Q. Were the Officers McGill and Moore who did 21 the drive-by, were they uniformed?</p> <p>22 A. Yes, they were.</p> <p>23 Q. And were they in a black-and-white vehicle?</p> <p>24 A. Yes, they were.</p> <p>25 Q. And was there any discipline that was</p>
<p>1 A. The first case I had was McGill and Moore.</p> <p>2 Q. McGill and Moore?</p> <p>3 A. Yes. Two different officers.</p> <p>4 Q. What were their first names?</p> <p>5 A. Solomon McGill and I believe it's Brian 6 Moore, but I'm not 100 percent on that.</p> <p>7 Q. How about the next ones?</p> <p>8 A. Sergeant William Matchko.</p> <p>9 Pete Biesanszky.</p> <p>10 Q. Okay.</p> <p>11 A. I don't know -- Hatten. I don't know if he 12 was before or after. And then Spiotto, I don't know 13 if he was before or after. I think he was after.</p> <p>14 Q. What was Hatten's first name?</p> <p>15 A. Mark Hatten.</p> <p>16 Q. And then can you spell the name of the 17 last -- last name of the person? Spiotto you said?</p> <p>18 A. Yes, Lance Spiotto.</p> <p>19 Q. Can you spell his last name?</p> <p>20 A. S-p-i-o-t-t-o.</p> <p>21 Q. What did the McGill and Moore case involve 22 generally?</p> <p>23 A. They were doing a followup on a -- I believe it was a robbery that occurred down the 24 street. And they drove by the residence and saw the</p>	<p>1 levied as a result of that incident?</p> <p>2 A. That I don't know. We don't handle 3 discipline on the CIRT side.</p> <p>4 Q. Did you make any recommendations for 5 discipline?</p> <p>6 A. We don't make recommendations for 7 discipline at all. We have nothing to do with 8 discipline.</p> <p>9 Q. You're just looking at policies and 10 training?</p> <p>11 A. We're looking at the facts, yeah.</p> <p>12 Q. Did you ever hear if there was any 13 discipline that arose out of that?</p> <p>14 A. We're not privy to that. And the reason 15 being is they don't want us to have a biased opinion 16 when it comes to recommendations.</p> <p>17 Q. In that CIRT process, is discipline usually 18 levied first, or -- is it usually levied before the 19 CIRT report is issued or after?</p> <p>20 A. After. Because it's the recommendations 21 from the chairperson and the sheriff when they talk.</p> <p>22 Q. So does discipline come out of the Use of 23 Force Board?</p> <p>24 A. So how it works is when we do the Use of Force Board, they roll right into our tactical</p>

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11 (Pages 38 to 41)

<p style="text-align:center">Page 38</p> <p>1 review, which is our conclusions. The board goes and      2 votes on those conclusions. They can either      3 validate, modify or overturn.      4 If there is a recommendation that a policy      5 was broken, such as for instance, body-worn camera,      6 if the body-worn camera was not activated within      7 policy, that will be validated. And then the chair      8 and the sheriff go and meet on recommendations for      9 discipline and they go to labor relations and we      10 have -- we never see that memo.</p> <p>11 Q. Okay. Did you find any policy violations      12 in that incident?</p> <p>13 A. On that one, no.</p> <p>14 Q. Okay. The next one I'm having trouble      15 reading my handwriting, was Sergeant Matchko?</p> <p>16 A. Matchko.</p> <p>17 Q. What happened in that case?</p> <p>18 A. He was responding to an area where a      19 gentleman had a gun and was kind of wandering the      20 neighborhood. When he got there he gave him verbal      21 commands to drop the gun. This went on for about --      22 I believe he was in verbal communication with him for      23 about 15 minutes, 10 to 15 minutes. And again, I      24 don't know that exact time.</p> <p>25 He had one of his officers move over, I</p>	<p style="text-align:center">Page 40</p> <p>1 the subject and the subject continues to charge at      2 him. And at that point he transitions into his      3 firearm and fires two rounds.</p> <p>4 Q. Any policy violations in that --</p> <p>5 A. Yes, the low lethality shotgun.</p> <p>6 Q. How was it a policy violation?</p> <p>7 A. Our policy states you have to have two      8 officers present to utilize that. However, because      9 he was a resident officer, he had -- in his      10 articulation to us he had no choice. He didn't want      11 to go right to handgun.</p> <p>12 Q. From time to time, do officers in the field      13 encounter individuals with Tasers?</p> <p>14 A. With Tasers?</p> <p>15 Q. Yeah.</p> <p>16 A. Like the subject having their personal      17 Taser?</p> <p>18 Q. Yeah.</p> <p>19 A. I have never had a case where a subject has      20 had their personal Taser.</p> <p>21 Q. All right. The next case was Hatten?</p> <p>22 A. Yes.</p> <p>23 Q. What did that involve?</p> <p>24 A. A naked male armed with a handgun that was      25 sitting outside of a church. Officers arrive and</p>
<p style="text-align:center">Page 39</p> <p>1 believe to the west side of the suspect to create a      2 tactical L. As that suspect moved -- I'm sorry. As      3 the officer moved, the suspect raised a gun in that      4 officer's direction and Sergeant Matchko fired one      5 round striking the subject in the chest.</p> <p>6 Q. Did the subject die?</p> <p>7 A. No. It was a nonfatal.</p> <p>8 Q. Did you find any policy violations in that      9 case?</p> <p>10 A. No.</p> <p>11 Q. The next one was Pete Biesanszky?</p> <p>12 A. Biesanszky.</p> <p>13 Q. What happened in that case?</p> <p>14 A. He was a resident officer. He was      15 responding to Gold Strike out in Jean, Nevada, where      16 a subject was naked running around the parking lot      17 armed with a knife and he had -- he was covered in      18 blood.</p> <p>19 Officer Biesanszky, being a resident      20 officer, was the only officer that could respond.      21 And he gets to the parking lot and the subject      22 charges him with a knife.</p> <p>23 He tries to de-escalate by using his low      24 lethality shotgun. He fires, I believe, either two      25 or four of the rounds, four rounds, and they strike</p>	<p style="text-align:center">Page 41</p> <p>1 attempt to get containment on the area. The air unit      2 arrives and another vehicle arrives, a patrol      3 vehicle, and they're able to issue verbal commands to      4 the subject to drop the gun, which he does.</p> <p>5 They direct the subject to walk away from      6 the firearm, which is in a northbound direction      7 toward what we call an arrest team or a group of      8 officers. And within that arrest team we had a K-9      9 officer.</p> <p>10 As he's walking back, he stops, he's      11 approximately, I believe it was about ten yards from      12 the officers, turns around and sprints right back      13 towards the gun. Officer Hatten, who was armed with      14 a rifle at that time, steps out and fires a round      15 striking the subject.</p> <p>16 Q. Okay. Nonlethal?</p> <p>17 A. I believe that was nonlethal, yeah.</p> <p>18 Q. And any policy violations in that case?</p> <p>19 A. Yes.</p> <p>20 Q. What were the policy violations?</p> <p>21 A. There was quite a few of them. I'm not      22 going to remember them all. One of the main one was      23 with the K-9 officer giving verbal commands versus      24 him controlling his K-9 dog. The fact that some body      25 cameras were not activated.</p>

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**\* \* \* Videotaped Deposition \* \* \***

12 (Pages 42 to 45)

<p style="text-align:center">Page 42</p> <p>1        And there was an overall question about the      2        use of force. At that time Officer Hatten had      3        articulated his use of force. And then -- but prior      4        to his interview, there was some concern about his      5        use of force.</p> <p>6        Q. Why?</p> <p>7        A. Because at the time that he fired, the      8        subject was not armed with the handgun. Had not      9        picked up the firearm.</p> <p>10      Q. Do you know if Mr. -- or Officer Hatten is      11     still on the force today?</p> <p>12      A. Yes, he is.</p> <p>13      Q. And the last case was Spiotto?</p> <p>14      A. I believe that happened after Lopera.</p> <p>15      Q. Generally, what did that involve?</p> <p>16      A. Off-duty officer was at an animal shelter      17     when a subject came in to rob -- came in to rob that      18     front desk and he was armed with a handgun and      19     Officer Spiotto stepped in.</p> <p>20      Q. And what did he do?</p> <p>21      A. He pulled out his personal firearm.      22     Confronted the subject. They got into a wrestling      23     match over the gun and the gun went off twice inside      24     the animal shelter before the subject ran off and was      25     taken into custody at a later date at a later</p>	<p style="text-align:center">Page 44</p> <p>1        THE VIDEOGRAPHER: The time is      2        approximately 11:14 a.m. We are back on the record.      3        BY MR. LAGOMARSINO:</p> <p>4        Q. Okay. You understand you're still under      5        oath?</p> <p>6        A. I'm sorry, what?</p> <p>7        Q. You're still under oath?</p> <p>8        A. Yes.</p> <p>9        Q. You're aware that there was an incident on      10      May 14th of 2017 in which Tashi Farmer was killed?</p> <p>11      A. Yes.</p> <p>12      Q. And you were the case agent on that?</p> <p>13      A. Yes.</p> <p>14      Q. Did you interview witnesses as part of your      15      role in that investigation?</p> <p>16      A. Yes, I did.</p> <p>17      Q. Which witnesses did you interview?</p> <p>18      A. We had Officer Tran, Flores, Officer Lif,      19      Sergeant Crumrine.</p> <p>20      Q. Lopera?</p> <p>21      A. Yes. He would be considered involved in      22     the CIRT world. Not necessarily a witness.</p> <p>23      Q. Okay.</p> <p>24      A. We had also Officer Amburgey and I believe      25      Officer Kravetz.</p>
<p style="text-align:center">Page 43</p> <p>1        location -- or a different location.</p> <p>2        Q. Were there any policy violations in that      3        case?</p> <p>4        A. Yeah.</p> <p>5        Q. What were they?</p> <p>6        A. Detective Spiotto was under the influence      7        of alcohol at the time.</p> <p>8        Q. Any others?</p> <p>9        A. CIRT had decided that based upon his      10      intoxication level, that he should not have      11      intervened. He should not have been armed with a      12      firearm.</p> <p>13      Q. What was his intoxication level?</p> <p>14      A. At the time six hours later that we got his      15      blood drawn, it was still at a .17.</p> <p>16      Q. Is Spiotto still on the force?</p> <p>17      A. No.</p> <p>18      MR. LAGOMARSINO: I usually go longer than      19      an hour but I think we're at a good time to take a      20      quick break.</p> <p>21      THE VIDEOGRAPHER: The time is      22      approximately 11:02 a.m. We are going off the      23      record.</p> <p>24      (A recess was taken from 11:02 a.m.      25      to 11:14 a.m.)</p>	<p style="text-align:center">Page 45</p> <p>1        Q. When did you start conducting interviews in      2        that case?</p> <p>3        A. Officer Lopera was the first interview that      4        we conducted, and I believe his was within 48 hours      5        of the incident.</p> <p>6        Q. Where did that take place?</p> <p>7        A. In our CIRT conference room at      8        headquarters.</p> <p>9        Q. Who was present?</p> <p>10      A. Myself, my partner Patrick Hughes. Kyle      11      Ward, Sergeant Kyle Ward. Lieutenant Dan Bledsoe and      12      then Officer Kenneth Lopera, and his representative      13      from PPA, Bryan Yant.</p> <p>14      Q. Bryan Yant, Y-a-n-t?</p> <p>15      A. Yes.</p> <p>16      Q. Did Officer Lopera have any counsel there?</p> <p>17      Any attorneys?</p> <p>18      A. No.</p> <p>19      Q. Did Officer Lopera waive his Fifth      20      Amendment right in that interview?</p> <p>21      A. He has to. He's under Garity. He would      22      have to talk with us.</p> <p>23      Q. And just for the record, explain what      24      Garity is.</p> <p>25      A. It's an admonishment we read our officers</p>

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13 (Pages 46 to 49)

<p style="text-align: center;">Page 46</p> <p>1       in an internal investigation that more or less reads      2       that they have to cooperate with the investigation or      3       they will face discipline.</p> <p>4       Q. How long did that interview take?</p> <p>5       A. I believe on record it was -- on tape,      6       because it was tape recorded, I believe about four      7       hours. But all in all I believe it was about six      8       hours. We took a break with lunch.</p> <p>9       Q. Did you have any conversations with Officer      10      Lopera about the incident off the record?</p> <p>11      A. No.</p> <p>12      Q. Did anybody have any conversations with him      13      off the record?</p> <p>14      A. I don't know.</p> <p>15      Q. And why did you do an interview of Officer      16      Lopera?</p> <p>17      A. Because he was an involved officer.</p> <p>18      Q. And maybe I asked you this, but      19      approximately how long after the incident did the      20      interview take place?</p> <p>21      A. We have within 48 hours by NRS 289.</p> <p>22      Q. Why is it important to interview within      23      48 hours?</p> <p>24      A. Well, we have to abide by the NRS Chapter      25      289, which is the rights of peace officers in</p>	<p style="text-align: center;">Page 48</p> <p>1       with the decedent, his reasons for foot pursuit. His      2       perception of an attempt carjacking. The use -- the      3       first use of the ECD, electronic control device.</p> <p>4       Q. Did you make a determination that he was      5       being untruthful as to the remainder of the use of      6       the electronic control device?</p> <p>7       A. It was not necessarily a truthfulness. It      8       was just outside the policy, his use of the ECD.</p> <p>9       Q. And what about what he said caused you to      10      believe that he was being untruthful about the head      11      strikes?</p> <p>12      A. The fact that he doesn't remember the      13      amount of strikes.</p> <p>14      Q. And what about the use of the LVNR causes      15      you to believe that he was being untruthful?</p> <p>16      A. Parts of his interview he started out by      17      saying he never meant to render the decedent      18      unconscious. However, as the interview progressed,      19      he later stated that the use of the LVNR is to      20      incapacitate a subject.</p> <p>21      Q. As you sit here today, can you recall      22      anything else about his interview that you perceived      23      to be untruthful?</p> <p>24      A. Not without looking at it.</p> <p>25      Q. What is the difference between a</p>
<p style="text-align: center;">Page 47</p> <p>1       internal investigation.</p> <p>2       Q. During your interview of Officer Lopera,      3       are you making credibility assessments?</p> <p>4       A. There's a fine line, I think, between      5       credibility and truthfulness. We're asking questions      6       about the incident and his perceptions of the      7       incident. We go through all of our grand recon and      8       our elements of deadly force.</p> <p>9       And with that we take what he says and go      10      through what is determined to be truthful and not      11      truthful.</p> <p>12      Q. And did you make any determinations as to      13      what you believe was truthful or not truthful?</p> <p>14      A. Yes.</p> <p>15      Q. And what determinations did you make that      16      he was truthful?</p> <p>17      A. One of the conclusions that we had in our      18      report was that he was being untruthful when -- for      19      the head strikes and the LVNR, or the use of the      20      LVNR.</p> <p>21      Q. Which determinations did you make that he      22      was being truthful?</p> <p>23      A. That he was being truthful?</p> <p>24      Q. Yeah.</p> <p>25      A. About the incident, his initial contact</p>	<p style="text-align: center;">Page 49</p> <p>1       credibility assessment and a truthfulness assessment?</p> <p>2       A. Well, with credibility we take the      3       officer's perception and we can't necessarily take      4       away an officer's perception to say I don't believe      5       you because I see it differently. Whereas      6       truthfulness if we can -- it's almost being caught in      7       a lie or something that's factual that we can prove      8       that did not happen or did happen.</p> <p>9       So credibility falls, for me falls more on      10      the perception of things. I can't take away an      11      officer's perception of what they saw.</p> <p>12      Q. In your CIRT investigations, do you ever      13      call into question when an officer says they      14      perceived?</p> <p>15      A. We take a -- we take a look at it. But      16      we've never taken away an officer's perception.</p> <p>17      Q. In other words, if an officer says to you I      18      perceived X, you always take that as true if they say      19      that's what they perceived, correct?</p> <p>20      A. Yes.</p> <p>21      Q. So with respect to Officers Tran -- strike      22      that.</p> <p>23      With respect to Officers Tran, Flores and      24      Sergeant Crumrine at the time, you did not discount      25      anything that they said in terms of if they said that</p>

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14 (Pages 50 to 53)

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<p>1       they perceived it? That's a terrible question. Let  2       me rephrase.  3           If Officers Tran, Flores and Sergeant  4       Crumrine stated that they perceived certain acts of  5       the individuals involved, did you ever discount their  6       credibility?  7           A. No.  8           Q. Is that just as a matter of policy?  9           A. That is not necessarily written in policy.  10       But we ask these officers these questions, again, to  11       get their perception of what they saw, what they  12       observed and why they reacted the way they did.  13           Q. So it may not be a policy but it's a  14       practice or a custom?  15           A. Sure.  16           Q. Is the investigation that you're conducting  17       focused on whether an officer is being credible?  18           A. No. It's based on the facts.  19           Q. And a better way maybe to say it from my  20       questioning standpoint is you're assuming everything  21       the officer is saying is true if they're saying it's  22       based on their perception?  23           A. Correct.  24           Q. Prior to investigating this incident, had  25       you ever been trained on the LVNR?</p>	<p>1       Q. And that's a vague question.  2           Did the officers that you interviewed that  3       were involved in the incident know the LVNR policies  4       offhand?  5           A. I don't know.  6           Q. Did you ask them?  7           A. I believe we went through the LVNR policy  8       with them.  9           Q. And did you receive any indication that  10       they didn't know it without looking at the policy?  11           A. I don't recall. I don't think so.  12           Q. Were you able to tell by looking at the  13       videotape if the LVNR was properly applied?  14           A. I don't know.  15           Q. You don't know if you were able to tell?  16           A. I wouldn't be able to -- I don't know if  17       the placement of the LVNR was proper.  18           Q. So as you sit here today, you don't know if  19       it was proper?  20           A. I don't know.  21           Q. What policies did Lopera violate in this  22       incident?  23           A. The electronic -- the ECD, the electronic  24       control device was a policy violation. And that  25       being that after three times it's deemed ineffective.</p>
Page 51	Page 53
<p>1       A. Yes.  2           Q. Prior to investigating this incident, had  3       you ever investigated another incident from an  4       internal standpoint involving the use of the LVNR?  5           A. No.  6           Q. When you started investigating this  7       incident -- strike that.  8           After you started investigating this  9       incident, did you have to brush up on your training  10       on the LVNR?  11           A. What do you mean by "brush up"?</p> <p>12           Q. Well, I think you were asked questions in  13       the other deposition about whether -- when somebody  14       is supposed to become unconscious and when you're  15       supposed to release the hold in terms of time.  16           Would you have known that when you were  17       conducting this investigation?  18           A. Yes. Because we would have the policies in  19       front of us.  20           Q. But if you didn't have the policy in front  21       of you, would you have known that?  22           A. Yes.  23           Q. Did the other officers know those policies  24       completely offhand when you interviewed them?  25           A. My partner, Patrick Hughes, yes.</p>	<p>1       However, Officer Lopera from the download of his  2       Taser had used it seven times, pulled the trigger  3       seven times.  4           Q. Okay.  5           A. The head strikes, the threat assessment and  6       the LVNR, which was a -- a truthfulness.  7           Q. So was Lopera -- strike that.  8           Did you find the policy violation against  9       Lopera for the actual use of the LVNR or the lying  10       about the LVNR?  11           A. For -- I think it was -- it was a  12       truthfulness --  13           MR. McNUTT: Objection. Form.  14           THE WITNESS: It was a truthfulness for the  15       LVNR.  16           BY MR. LAGOMARSINO:  17           Q. Okay.  18           A. About the use of the LVNR.  19           Q. Okay. So standing alone, his use of the  20       LVNR did not violate policy in your view; is that  21       correct?  22           A. I believe it had his threat perception  23       about the application of the LVNR and then the  24       truthfulness leading up to the LVNR is what the  25       conclusion was based on, but I don't remember</p>

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15 (Pages 54 to 57)

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<p>1 verbatim how I worded it in the report.      2 Q. Okay. What report are you talking about?      3 A. We, at the conclusion of our investigation,      4 we put all our facts together in an AR, or admin      5 report.      6 Q. And where does that go?      7 A. That is -- it goes to our people who sit on      8 the board. And when we present the facts through a      9 PowerPoint, they're able to read along in that report      10 with our PowerPoint. If they have any questions or      11 concerns, they can direct them at me. Or if they      12 have questions for Officer Lopera or any of the      13 involved officers or witness officers, they can      14 answer them as well.      15 Q. And as I understand your testimony, you      16 find the policy violation for the necessity or the      17 use of the LVNR, correct?      18 A. Not necessarily the necessity. We look at      19 the assessment of the use of force. And with that,      20 because of the types of use of force that Officer      21 Lopera used, we questioned him on those as to why he      22 used those or why he decided to use those.      23 Q. Did you find a policy violation in the      24 actual application of the restraint/LVNR?      25 A. Based on the perception on the threat</p>	<p>1 statement to us had stated that the decedent was      2 fighting him. In review of --      3 MR. McNUTT: Objection. Form. I will      4 instruct the witness not to repeat anything that      5 Officer Lopera told you during this process.      6 MR. ANDERSON: Join. Anything that he told      7 you.      8 THE WITNESS: Okay.      9 MR. LAGOMARSINO: What's the basis for      10 that? Just so we have a record.      11 MR. ANDERSON: We have a pending motion --      12 you filed a motion to compel in these issues on his      13 statement. So once that's decided, we will let the      14 judge decide whether Lopera's statement is relevant      15 or can be used in this case.      16 MR. LAGOMARSINO: Okay.      17 BY MR. LAGOMARSINO:      18 Q. So was Tashi Farmer fighting back?      19 A. From what we could see on the video      20 surveillance and a little bit of Officer Lopera's      21 body camera, it did not look to be what Officer      22 Lopera had articulated to us.      23 Q. What about the use of the head strikes was      24 a violation of policy?      25 A. It would have been excessive use of force</p>
Page 55	Page 57
<p>1 perception, yes.      2 Q. And I think maybe I'm asking a different      3 question than you're answering. And it's probably      4 the question's -- probably the questioner's fault.      5 Let's assume that the threat hypothetically      6 justified the use of an LVNR. Okay?      7 If he used the LVNR that was depicted on      8 the tape, did you find any violation in the way he      9 actually applied the LVNR?      10 A. There was some question about the hand. I      11 believe it was his right hand, where the hand      12 placement of that was, because that was not what      13 was trained with the use of the LVNR with our      14 department.      15 Q. And I understand there was a question about      16 it. But was there a finding or conclusion made that      17 he misapplied the LVNR?      18 A. That was based and kind of rolled into the      19 truthfulness conclusion.      20 Q. The best way to probably get the exact      21 conclusion would be to review the report, correct?      22 A. Yes, sir.      23 Q. Okay. What about the threat assessment was      24 a violation of policy?      25 A. The strikes -- Officer Lopera in his</p>	<p>1 based on the threat perception.      2 MR. LAGOMARSINO: All right. I'll reserve      3 the right to come back with the witness based on the      4 court's ruling on anything with respect to what      5 Officer Lopera described to her in the CIERT      6 statement.      7 MR. ANDERSON: Understood.      8 BY MR. LAGOMARSINO:      9 Q. Do you use LVNR and chokehold      10 interchangeably?      11 A. No.      12 Q. I think you were asked in the other      13 deposition whether -- a slightly different question.      14 Let me rephrase.      15 In the other deposition you were asked is      16 an LVNR and a rear naked choke the same?      17 A. I was asked that in the deposition?      18 Q. Yeah.      19 A. Is that your question, are they the same?      20 Q. Yes.      21 A. No.      22 MR. ANDERSON: Okay, that got confusing.      23 Was the question, were you asked that question in a      24 prior deposition, or is there a difference between an      25 LVNR and a chokehold?</p>

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 \* \* \* Videotaped Deposition \* \* \*

16 (Pages 58 to 61)

Page 58	Page 60
<p>1           MR. LAGOMARSINO: Okay. I'll refine the      2 question.      3 BY MR. LAGOMARSINO:      4           Q. Rather than go off my notes, what I'll do      5 is I'll bring the transcript back for the next      6 session.      7           Is the rear naked choke the same as the      8 LVNR?      9           A. No.      10          Q. In the rear naked choke, the encircling arm      11 is used the same way as you would have in an LVNR,      12 correct?      13          A. I'm sorry, could you say that again?      14          Q. Sure. When you compare the rear naked      15 choke and the LVNR, the encircling arm is the same?      16          A. I believe so, yes.      17          Q. And it's in the same position, correct?      18          A. Yes.      19          Q. What's the difference, as you sit here      20 today, between the LVNR and a rear naked choke?      21          A. I believe it's the hand placement of the      22 non-encircling arm.      23          Q. And in the LVNR, the hand placement is      24 permitted on the back of the head, correct?      25          A. I'm sorry, say that one more time.</p>	<p>1 remember.      2           Q. Okay. Do you know if that video was shown      3 to all the officers in Metro?      4           A. I don't know.      5           Q. Does Metro train you in how long it takes      6 to render somebody unconscious when you impose the      7 LVNR?      8           A. Yes, they do.      9           Q. And how long is that?      10          A. I believe it's four to seven seconds.      11          Q. Four to seven seconds?      12          A. I believe so.      13          Q. Are you sure?      14          A. No.      15          Q. Would you have to see the policy?      16          A. I would have to see the lesson plan, yes,      sir.      17          Q. To your knowledge, was Officer Lopera ever      18 interviewed by anyone at Metro besides in the CIRT      19 statement?      20          A. Not -- I believe his -- his interview with      21 us was the only interview that was conducted in      22 reference to this investigation.      23          Q. Reference to the CIRT investigation?      24          A. Correct.</p>
<p>1           Q. In which hold is the hand placement on the      2 back of the neck applied, the rear naked choke or the      3 LVNR?      4           A. Rear naked choke.      5           Q. And why is the hand placed in the back of      6 the head?      7           A. I believe it's to apply pressure to the      8 back of the head forward into the encircling arm, but      9 I'm not 100 percent sure.      10          Q. And is that to avoid the person backing      11 their head into --      12          A. I don't know.      13          Q. I've seen a training video in this case.      14 Do you know why that training video on the LVNR was      15 created?      16          A. If you're referencing the one to the      17 department?      18          Q. Yes.      19          A. I believe it was to talk about the      20 differences between the LVNR and the chokehold or the      21 rear naked choke.      22          Q. Have you ever seen any training videos on      23 the LVNR besides that one?      24          A. I believe when we first got trained on in      25 the academy, they had a video, but I'm not -- I don't</p>	<p>1           Q. Do you know of any other interviews he's      2 given?      3           A. Oh, I don't know.      4           Q. Did he give a public safety statement?      5           A. He started to, and then it was stopped.      6           Q. Who stopped it?      7           A. His attorney John Eldridge I believe is who      8 arrived on scene. Or the PPA attorney, not his      9 attorney. I apologize.      10          Q. When you're going to present your findings      11 to a board, is that the CIRT board?      12          A. Yes. We have two boards. Well, it's a      13 CIRP process. The first board is the Use of Force      14 Review Board, and then we roll right into what's      15 called the TRB or Tactical Review Board. And the      16 conclusions are presented at the Tactical Review      17 Board.      18          Q. So we've got two boards; Use of Force and      19 Tactical Review. Is there an actual -- what is the      20 CIRP proceeding where you go in and present your      21 case?      22          A. It's the CIRP process, the critical      23 incident review process, and that's the two boards      24 that run.      25          Q. So are the two boards part of the CIRP</p>

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17 (Pages 62 to 65)

<p style="text-align: right;">Page 62</p> <p>1 process?      2 A. Yes.      3 Q. Who was on that board for this case?      4 A. Our chairperson was Sheriff Tim Kelly,      5 Assistant Sheriff Tim Kelly. Followed by Deputy      6 Chief John McGrath.      7 Bureau Commander for Lopera, Lif, Tran,      8 Flores was Captain Pelletier.      9 For Sergeant Crumrine, because at the time      10 of the board he was over in Enterprise Area Command,      11 I believe it would have been Captain Roxanne McDaris.      12 It's Burke now. I apologize.      13 Moving into our tactical expert which would      14 have been Ryan Evans, Sergeant Ryan Evans. We had a      15 peer officer who was Travis -- what's his name? I      16 can't remember his name.      17 And then we had a peer sergeant, which I      18 believe was Noe Esparza, but I'm not a hundred      19 percent sure on the two peer officers. It's      20 Travis -- I can't remember his name.      21 Q. Okay.      22 A. And then we had four citizens that sat on      23 the board.      24 Q. So four citizens and how many Metro      25 officers, six or seven?</p>	<p style="text-align: right;">Page 64</p> <p>1 votes?      2 A. Citizens will actually outvote us on the      3 Use of Force Board.      4 Q. What about with respect to whether policy      5 violations occurred?      6 A. That happens in the Tactical Review Board      7 and our citizens do not vote on that. And the reason      8 being is because they're not privy to our tactics and      9 training, but they're welcome to stay for the board.      10 Q. And then with respect to policy      11 recommendations that come out of this process, who      12 makes those?      13 A. That would be a meeting between the      14 chairperson and the sheriff. But they are discussed      15 in what we call deliberations which are not video or      16 audio recorded and there's no notes taken.      17 Q. So who participates in the discussion as to      18 whether policy is going to change as a result of this      19 process?      20 A. Everyone on the board can participate and      21 that's again in deliberations. But any formal      22 recommendations is going to be a memo between the      23 sheriff and the chairperson.      24 Q. Who makes the recommendations to the      25 sheriff or the chairperson?</p>
<p style="text-align: right;">Page 63</p> <p>1 A. For -- we have one peer officer for all      2 officers and one peer sergeant for Sergeant Crumrine.      3 And then everyone that was on the board was Officer      4 Lopera, Officer Lif, Tran, Flores, Sergeant Crumrine,      5 and I believe that's all that was invited to the      6 board.      7 Q. Were all the peer officers the same for all      8 the officers involved?      9 A. Yes.      10 Q. So on the -- and then a vote is taken,      11 correct?      12 A. On the use of force, yes.      13 Q. How many votes are there?      14 A. So all -- everyone on the Use of Force      15 votes, including the citizens, except for the      16 chairperson. He is not a voting member on the Use of      17 Force Board.      18 Q. Okay. So what's the number? How many      19 votes are there?      20 A. Total, I don't remember who -- I don't      21 remember how many votes. Everyone that I said except      22 for the chairperson votes, but I don't remember how      23 many votes -- how many voting sheets are actually      24 there.      25 Q. Are there more Metro votes than citizen</p>	<p style="text-align: right;">Page 65</p> <p>1 A. So it's a board that convenes during the      2 deliberations. They talk about -- they talk about it      3 and then whatever -- the chairperson will present the      4 concerns to the sheriff. In between those two, they      5 came up with discipline, policy changes or any other      6 recommendations that could help the department.      7 Q. And are citizens a part of that process      8 with respect to policy changes?      9 A. Yes. They can voice concerns but they're      10 not voting on the board.      11 Q. Do you know which citizens were on the      12 board?      13 A. I don't.      14 Q. Do you know how they're selected?      15 A. It's a process that they -- I believe we      16 have like advertisements in like the newspaper. Word      17 of mouth. They just can't have any affiliation to      18 the department. Can't be married to anyone in the      19 department. Can't be a former officer. And so      20 they -- they come through a training of just what the      21 process is, what's expected of them.      22 And I believe that class is -- it might be      23 like a -- I don't know how long the class is but they      24 come to a class and we get an opportunity to meet      25 them as well as because we have conversations with</p>

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18 (Pages 66 to 69)

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<p>1       them.</p> <p>2       Q. Okay. So they go through either some kind</p> <p>3       of PowerPoint or written training on how to be on</p> <p>4       that board?</p> <p>5       A. Yes.</p> <p>6       Q. Have you seen those training materials</p> <p>7       before?</p> <p>8       A. Yes.</p> <p>9       Q. Have you instructed?</p> <p>10      A. No.</p> <p>11      Q. So if we wanted to request those, we could</p> <p>12     get those?</p> <p>13      A. Yeah.</p> <p>14      MR. ANDERSON: Objection. Form.</p> <p>15      MR. LAGOMARSINO: Assuming there was no</p> <p>16     objection to producing those, correct?</p> <p>17      BY MR. LAGOMARSINO:</p> <p>18      Q. But if the judge ordered those produced, we</p> <p>19     could get those produced, right?</p> <p>20      A. I'm sure you could.</p> <p>21      Q. And so on the Lopera, Crumrine, Flores and</p> <p>22     Tran case, that occurred September '17?</p> <p>23      A. I believe so.</p> <p>24      Q. And you were present?</p> <p>25      A. Yes, I was.</p>	<p>1       Board presentation was just under maybe two and a</p> <p>2       half, three hours.</p> <p>3       Q. And was the presentation divided up into</p> <p>4       segments per officer or was it just all together?</p> <p>5       A. All together.</p> <p>6       Q. Okay. And it's my understanding that that</p> <p>7       presentation is audio recorded?</p> <p>8       A. Yes, it is.</p> <p>9       Q. And is your presentation factual?</p> <p>10      A. Yes.</p> <p>11      Q. Does your presentation consist of policy</p> <p>12     recommendations for changes?</p> <p>13      A. It's going to be in the TRB. But for the</p> <p>14     use of force, it's just the facts.</p> <p>15      Q. So the answer was "no"?</p> <p>16      A. No.</p> <p>17      Q. Was there testimony presented at that</p> <p>18     board?</p> <p>19      A. As far as?</p> <p>20      Q. Witness testimony or did independent</p> <p>21     witnesses testify about the incident?</p> <p>22      A. It's not really -- they don't really</p> <p>23     testify. I apologize if I'm getting confused. But</p> <p>24     during the board we have clips from the officers'</p> <p>25     statements that we will actually put into the board.</p>
<p>1       Q. What portion of that process were you</p> <p>2       present for?</p> <p>3       A. The entire thing.</p> <p>4       Q. Were you present during deliberations?</p> <p>5       A. No.</p> <p>6       Q. Where does the board deliberate?</p> <p>7       A. There's a couple of different locations on</p> <p>8       this particular board. I don't recall where they</p> <p>9       went but there's a conference room on the second and</p> <p>10      third floor that they all go into and convene. And</p> <p>11      again, on this particular board, I don't recall where</p> <p>12      they went.</p> <p>13      Q. And who presented the incident to the</p> <p>14     board?</p> <p>15      A. I did.</p> <p>16      Q. Did anybody else help you?</p> <p>17      A. No.</p> <p>18      Q. What did your presentation consist of?</p> <p>19      A. It was a PowerPoint that over -- that went</p> <p>20     through several sections which included persons</p> <p>21     involved, chronology, incident documentation, the</p> <p>22     medical response to include a new supervisor</p> <p>23     response, and any training policies and procedures.</p> <p>24      Q. How long was your presentation?</p> <p>25      A. It was long. I believe the Use of Force</p>	<p>1       Q. Okay.</p> <p>2       A. Into the PowerPoint so they can read along</p> <p>3       and they can also hear it. If that's what you're</p> <p>4       talking about, then yes, we do have that.</p> <p>5       Q. All right.</p> <p>6       A. But the officers do have a chance to talk</p> <p>7       after the presentation. At the conclusion of the</p> <p>8       presentation they have an opportunity to answer</p> <p>9       questions or add any additional comments.</p> <p>10      Q. Was that video of the difference between a</p> <p>11     rear naked choke and an LVNR played during your</p> <p>12     presentation?</p> <p>13      A. It was. And it wasn't the video in the</p> <p>14     academy. It was one that was put together for the</p> <p>15     purposes of the board.</p> <p>16      Q. Thank you for clarifying that.</p> <p>17      Do you know if the citizens are paid?</p> <p>18      A. It's all volunteer.</p> <p>19      Q. Do you know with respect to the vote, is it</p> <p>20     a majority vote that determines or is it 60 percent</p> <p>21     or...</p> <p>22      A. That's a good question. I think it's a</p> <p>23     majority vote. About 90 percent of our boards have</p> <p>24     been unanimous but I believe there has been like, for</p> <p>25     instance, a six to one vote.</p>

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19 (Pages 70 to 73)

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<p>1 Q. Do you know what the vote was in this case?  2 A. I don't. I believe it was unanimous, but  3 I'm not 100 percent.  4 Q. And when a decision is made, is there a  5 memo that's presented to the sheriff?  6 A. Yes. And I believe the timeline is two  7 weeks by policy.  8 Q. Sheriff Lombardo was the sheriff at the  9 time?  10 A. Yes.  11 Q. Have you ever seen that memo?  12 A. No.  13 Q. Does the Office of Internal Oversight get  14 to review the memo?  15 A. Yes, they do.  16 Q. Had you read similar memos when you were in  17 the Office of Internal Oversight?  18 A. I did.  19 Q. Is there a typical format? Was it two or  20 three pages, a page? It could be voluminous?  21 A. It just depends on the board and the  22 recommendations that came out of the board.  23 Q. And so what kind of recommendations would  24 you see on memos when you would be in the Office of  25 Internal Oversight?</p>	<p>1 Q. What would you do with those memos when  2 they came up when you were in the Office of Internal  3 Oversight?  4 A. What do you mean what would we do with  5 them?  6 Q. Well, you would get the memo. What would  7 be the next steps?  8 A. The next step would be to look through the  9 recommendations and see what bureau it needs to go  10 to. If it is going to training, go to training. We  11 would put it in a different memo and say per CIRP  12 board 2017, whatever, it's recommended by the sheriff  13 that this training be limited, get pushed out. You  14 have 90 days, 60 days, whatever it is per policy,  15 search and seizure.  16 It just depended on what we needed. Trauma  17 kits that went through office of -- went through our  18 financial office. And then our health and safety to  19 make sure that we could actually use what was in the  20 trauma kit if we're trained up to use it, if it was  21 going to be a liability, if it wasn't going to be a  22 liability. So it just depends on what the  23 recommendation was.  24 Q. Would there be occasions when  25 recommendations would not be implemented that would</p>
<p style="text-align: center;">Page 71</p> <p>1 A. We had recommendations for new trauma kits  2 that was implemented. Recommendation for shields,  3 tactical vehicles which are now also implemented  4 throughout the area commands.  5 We would have recommendations for  6 discipline, whether if it would be a written, which  7 we would have to receive from the involved officer's  8 supervisor. Training recommendations that we would  9 have to keep up on once we got the -- once we got the  10 memo from the sheriff, we would look at the  11 recommendations and then disperse it out to the  12 appropriate bureau that would be handling that  13 recommendation. And they would give them a timeline  14 and then stay up to date with it, making sure they're  15 doing what they should be doing.  16 Q. What was Esmeralda Bovela's title?  17 A. She was the sergeant of the Office of  18 Internal Oversight.  19 Q. So she would have been the sergeant in  20 charge of that board for this incident?  21 A. Yes. For -- yeah.  22 Q. For Lopera?  23 A. Yeah. She wouldn't be in charge of the  24 board but she would be in charge of the  25 recommendations that would come out of the board.</p>	<p style="text-align: center;">Page 73</p> <p>1 come from the CIRP process?  2 A. Every recommendation that we had was  3 implemented unless it was something to do -- yeah,  4 there was actually one. And it was reference SWAT  5 and snipers getting their gear because it was budget  6 issues paying for scopes and rifles and...  7 Q. Were there other officers who worked in the  8 Office of Internal Oversight that would have access  9 to that memo?  10 A. Yes.  11 Q. Was it possibly Lucas Abbott or Brian  12 Kreoning?  13 A. Yes.  14 Q. Now, when you would receive the memo from  15 the CIRP process, would the Office of Internal  16 Oversight take that memo and create a new memo?  17 A. Yes.  18 Q. And where would that new memo go?  19 A. That would go to the designated bureau that  20 would be handling that recommendation.  21 Q. So is it possible there would be multiple  22 new memos that would come out of that Office of  23 Internal Oversight?  24 A. Yes.  25 Q. And in this case, since you weren't in the</p>

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20 (Pages 74 to 77)

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<p>1      Office of Internal Oversight, you don't know if there      2      were one or more?</p> <p>3      A. Correct. I have no idea what were the      4      recommendations.</p> <p>5      Q. Where were those memos being maintained?</p> <p>6      A. Sergeant Boveda would maintain those.</p> <p>7      Q. And would you use an Excel spreadsheet to      8      track when the recommendations were being implemented      9      and so forth?</p> <p>10     A. Yes. And for the Lopera case, I'm not sure      11    if they used the matrix or not.</p> <p>12     Q. If we wanted to find out the names of the      13    citizens on the board, I'm assuming Metro keeps a      14    record of their names?</p> <p>15     A. Yes, they do.</p> <p>16     Q. Did you watch the press conference of      17    Captain McMahill regarding this incident?</p> <p>18     A. Which one?</p> <p>19     Q. Any of them.</p> <p>20     A. Yes.</p> <p>21     Q. Did you see the one where he said that      22    Tashi Farmer would not have been charged with a      23    crime?</p> <p>24     A. I don't recall.</p> <p>25     Q. Does Metro, to your knowledge, maintain</p>	<p>1      A. I don't know.</p> <p>2      Q. Did he violate a policy with respect to the      3      body cam?</p> <p>4      A. Yes, he did.</p> <p>5      Q. What did he violate?</p> <p>6      A. The fact that the policy states that the      7      body camera is to be turned on as soon as possible      8      once initiated on a call or dispatched to a call or      9      self-initiated.</p> <p>10     Q. Tell me a little bit about the process of      11    determining what potential policy violations you were      12    going to be investigating at the outset of the      13    investigation?</p> <p>14     A. We look at the overall incident. We sit      15    down in roundtable. Things that we see that can be,      16    again, it can be a body-worn camera; rolling code      17    three, which is lights and sirens, to an incident.      18    Officers approach, their tactical decision-making.      19    So we kind of look at everything.</p> <p>20     And then go over the policies to make sure,      21    okay, for instance, Officer Tran, he didn't have it      22    on. The policy states this. Okay, that's going to      23    be a policy violation that will be introduced to the      24    Tactical Review Board.</p> <p>25     Q. When you started interviewing Officer Tran,</p>
<p style="text-align: center;">Page 75</p> <p>1      news clips or media records about stories involving      2      its officers?</p> <p>3      A. I don't know. I'm assuming they would, but      4      I don't know.</p> <p>5      Q. Does the sheriff receive regular reports      6      regarding media on Metro?</p> <p>7      A. I don't know.</p> <p>8      Q. I guess I would have to ask the sheriff,      9      right? Okay. Or whoever is presenting with those,      10     correct?</p> <p>11     A. Yeah. Public information officer, PIO      12     might know.</p> <p>13     Q. Do you know why the body cameras don't have      14     sound for the first 30 seconds?</p> <p>15     A. I don't. I believe it's a mechanism,      16     something to do with the actual internal workings of      17     the body camera, and I don't know.</p> <p>18     Q. Have you ever heard of body cameras that do      19     record sound for all the time that they're activated?</p> <p>20     A. I haven't, no. Do you mean from the time      21     it's turned on?</p> <p>22     Q. Yes.</p> <p>23     A. No. I don't know.</p> <p>24     Q. Do you know if Officer Tran received      25     discipline for failure to use a body cam?</p>	<p style="text-align: center;">Page 77</p> <p>1      Officer Flores, and I believe Sergeant Crumrine, you      2      had made a statement that it's being alleged or that      3      they've failed to intervene.</p> <p>4      What information did you utilize to      5      investigate that potential policy violation?</p> <p>6      A. When we looked -- because of the amount of      7      time Officer Lopera had the decedent in the LVNR or      8      chokehold, at that time, what we knew was that was an      9      extended amount of time beyond policy. And so we      10     threw in there the duty to intervene and asked them      11     specifically about that policy.</p> <p>12     Q. Let me just ask a general question about      13     the duty to intervene.</p> <p>14     If -- and again, I'm talking generally.      15     I'm not talking necessarily about this specific      16     incident.</p> <p>17     A. Okay.</p> <p>18     Q. Okay? Let's say an officer -- there are      19     two officers on the scene. The first officer places      20     an individual in the LVNR for an extended period of      21     time. The second officer arrives on the scene and      22     observes the first officer applying the LVNR for a      23     period of time longer than policy.</p> <p>24     The second officer says, hey, stop, hey,      25     release. Verbal commands. And the first officer</p>

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 \* \* \* Videotaped Deposition \* \* \*

21 (Pages 78 to 81)

<p style="text-align: center;">Page 78</p> <p>1 doesn't release the LVNR. Has the second officer      2 complied with the policy to intervene?      3 MR. ANDERSON: Objection. Form.      4 THE WITNESS: It depends on what the      5 subject's actions are at the time. The officers are      6 trained to make the situation safe. That was --      7 that's what we're trained to do first, is to make      8 that safe. Once that scene is safe, then an officer      9 is expected to intervene if that hold is held for      10 longer.      11 BY MR. LAGOMARSINO:      12 Q. So I'll add those additional facts just so      13 we have a cleaner record.      14 Same hypothetical situation but we're going      15 to add facts, okay?      16 First officer places subject into LVNR for      17 an extended period of time.      18 Second officer arrives. Observes first      19 officer placing subject -- or keeping subject in      20 LVNR. Subject is not a threat, is not punching, and      21 second officer says verbally release LVNR.      22 First officer doesn't release LVNR.      23 Does the second officer have a duty then,      24 at that point, to physically intervene and remove the      25 LVNR hold or attempt to remove the LVNR hold from the</p>	<p style="text-align: center;">Page 80</p> <p>1 physically intervene?      2 A. I'm sorry, say that again.      3 Q. In your last answer you said -- you added      4 that the subject would have to be in handcuffs. So I      5 want to ask a new question.      6 There's different types of interventions so      7 let me kind of back it up a little bit and then we'll      8 go to lunch, but not together.      9 So you can verbally intervene, correct?      10 A. Yes.      11 Q. But if the situation requires physical      12 intervention, then physical intervention is required,      13 correct?      14 A. Yes.      15 MR. ANDERSON: Objection. Form.      16 BY MR. LAGOMARSINO:      17 Q. If the situation requires physical      18 intervention, then verbal intervention is not enough      19 to satisfy the duty to intervene, correct?      20 MR. ANDERSON: Objection. Form.      21 THE WITNESS: It could, yeah.      22 BY MR. LAGOMARSINO:      23 Q. I just need a slightly clearer record, so      24 I'll ask the same question.      25 If a situation requires physical</p>
<p style="text-align: center;">Page 79</p> <p>1 subject?      2 MR. ANDERSON: Objection. Form.      3 MR. McNUTT: Join.      4 THE WITNESS: Again, it depends on the      5 perception of that officer. We're trained to take      6 that person into custody, put him in handcuffs, make      7 that situation, that scene safe before the LVNR would      8 be released.      9 BY MR. LAGOMARSINO:      10 Q. If the situation was safe, would the      11 second officer have a duty to physically remove the      12 hold?      13 MR. ANDERSON: What do you mean by "safe"?      14 Objection. Form.      15 MR. LAGOMARSINO: Well, I'm just using her      16 word.      17 BY MR. LAGOMARSINO:      18 Q. So if it's safe?      19 A. If it's deemed safe by the officer, if that      20 person is in handcuffs, is no longer a threat to any      21 officer on scene, not just the perceiving officer who      22 is perceiving that there's no movement, once that --      23 again, once it is safe by all officers, then yes, the      24 officer would have a duty to intervene.      25 Q. Does the subject have to be in handcuffs to</p>	<p style="text-align: center;">Page 81</p> <p>1 intervention, then verbal intervention is not enough,      2 correct?      3 MR. ANDERSON: Objection. Form.      4 THE WITNESS: It depends, yeah. I mean, if      5 an officer would have to go -- if he's not -- I don't      6 know. I don't know how to answer that.      7 MR. LAGOMARSINO: Okay. All right. Take a      8 lunch break.      9 I don't know if you want to come back like      10 1:15?      11 MR. ANDERSON: You have a phone call?      12 MR. LAGOMARSINO: Yeah, but it should start      13 at 1:00.      14 MR. ANDERSON: Okay.      15 THE VIDEOGRAPHER: The time is      16 approximately 12:04 p.m. We are going off the      17 record.      18 (A recess was taken from 12:04 p.m.      19 to 1:29 p.m.)      20 THE VIDEOGRAPHER: The time is      21 approximately 1:29 p.m. We are back on the record.      22 BY MR. LAGOMARSINO:      23 Q. You understand you're still under oath?      24 A. Yes, I do.      25 Q. All right.</p>

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\* \* \* Videotaped Deposition \* \* \*

22 (Pages 82 to 85)

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 \* \* \* Videotaped Deposition \* \* \*

23 (Pages 86 to 89)

<p style="text-align: center;">Page 86</p> <p>1 BY MR. LAGOMARSINO:      2 Q. "Looking back on this incident, is there      3 anything else you would have done differently" is      4 what you asked Officer Tran, correct?      5 A. Yes.      6 Q. And what was his response?      7 A. On line 16 he says, "Um, I should have      8 started CPR."      9 Q. Did you agree with him?      10 A. So these are the questions that we ask at      11 the end of interview and they are kind of hindsight      12 questions. And it's kind of reflections on the      13 officers as far as what they would do differently,      14 nothing that we would necessarily hold for a CIRT      15 board.      16 (Exhibit 2 was marked for      17 identification.)      18 BY MR. LAGOMARSINO:      19 Q. Exhibit 2 are excerpts from the CIRT      20 statement of Officer Michael Flores.      21 Do you have that in front of you?      22 A. Yes, I do.      23 Q. And I'm sorry, just to go back to Exhibit 1      24 for a moment.      25 A. Okay.</p>	<p style="text-align: center;">Page 88</p> <p>1 A. It's not necessarily policy, but it's      2 trainings and tactics and part of decision making.      3 Q. And the next question, although it's not      4 highlighted, is at line 8. It says, "En route to      5 Venetian, any reason why you did not activate your      6 body camera while rolling code?"      7 I would ask you is it policy and training      8 of Metro to activate body cameras while rolling code?      9 A. Yes, it is.      10 Q. Do you have an understanding of what the      11 punishment or discipline is for not activating body      12 camera?      13 A. I don't. I don't know what the discipline      14 matrix would be on this. Or what would fall within      15 the matrix, I should say.      16 Q. And going to LVMPD1886, which is page 28 of      17 the CIRT statement, the question -- it says at line      18 5, middle, it says, "And you said you folded his legs      19 to gain compliance. Is there a technique that's      20 taught in the Academy?"      21 Is it your understanding that if the      22 subject has their torso down on the pavement, that      23 it's within Metro policy and training to fold an      24 individual's legs back up to their buttocks?      25 A. It is an option that officers have.</p>
<p style="text-align: center;">Page 87</p> <p>1 Q. Do the pages that I've shown you appear to      2 you to be a true and correct copy of the pages from      3 the CIRT statement?      4 A. Yes.      5 Q. So going to Exhibit 2, the Flores excerpt.      6 So who is GW?      7 A. That is Greg Watkins or Gregory Watkins.      8 Q. He's on the CIRT team?      9 A. Yes, sir.      10 Q. Did Gregory Watkins say to Officer Michael      11 Flores, number one, "Prior to your arrival you failed      12 to activate your body-worn camera," and number two,      13 "You failed to intervene while the application of the      14 LVNR was applied to the subject"?</p> <p>15 A. Yes.      16 Q. Going to page 1874 from the statement at      17 line 5, it says, "Did you and Officer Tran conduct      18 any preplanning of any incident rehearsal while en      19 route to the location?"      20 You asked that question, correct?      21 A. Yes, I did.      22 Q. And Mr. Flores's answer was "no," correct?      23 A. Yes.      24 Q. Is preplanning on the way to an incident      25 part of Metro policy and training?</p>	<p style="text-align: center;">Page 89</p> <p>1 Q. So yes?      2 A. Yes. But it depends on the scenario as      3 well. It's not something you have to use. It's not      4 a policy that you must use. It's an option for      5 officers to use.      6 Q. Was Tashi Farmer resisting when they folded      7 his legs up to gain compliance?      8 A. I would have to read his whole statement to      9 recall.      10 Q. Fair enough.      11 Was Tashi Farmer in medical crisis after he      12 was released from the LVNR?      13 A. I don't know.      14 Q. Do you have an opinion or an estimate as to      15 when Sergeant Crumrine took charge of the scene, if      16 at all?      17 A. I believe in the CIRT report we came up      18 with, I believe it was about ten minutes after the      19 decedent was taken into custody.      20 Q. Going to the last page, 1934, which is      21 page 76 of the statement, asking the question I      22 believe about what could have been done. There's a      23 statement, line 8, it says, "But I feel as if the      24 communication could have been better."      25 Did you make any conclusions in your</p>

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24 (Pages 90 to 93)

Page 90	Page 92
<p>1 presentation about the communication being better?</p> <p>2 A. Yes, we did.</p> <p>3 Q. What were your conclusions?</p> <p>4 A. The conclusions was Officer Lopera had a</p> <p>5 negative conclusion reference radio traffic. Also I</p> <p>6 believe there was a conclusion on contacting cover.</p> <p>7 Q. Can you explain in layman's terms what a</p> <p>8 negative conclusion regarding radio traffic means?</p> <p>9 A. Sure. For this particular incident, it was</p> <p>10 a lack of radio traffic. And by policy, within the</p> <p>11 foot pursuit policy, you must provide certain radio</p> <p>12 traffic. That was not provided by Officer Lopera.</p> <p>13 Q. And then there was also a conclusion</p> <p>14 regarding contacting cover. What was that</p> <p>15 specifically?</p> <p>16 A. Verbatim I don't recall. But contacting</p> <p>17 cover, one officer is the contact officer while the</p> <p>18 other officer, witness officer would be cover</p> <p>19 officers. And I don't remember specifically how it</p> <p>20 was worded for the Lopera conclusion.</p> <p>21 Q. Okay. Thank you. Does this appear to</p> <p>22 be -- strike that.</p> <p>23 Do these pages appear to be true and</p> <p>24 correct excerpts from the CIRT statement?</p> <p>25 A. Yes.</p>	<p>1 copy of the policy that would apply to the Tashi</p> <p>2 Farmer case?</p> <p>3 A. Yes.</p> <p>4 Q. So you were -- let's go through the</p> <p>5 definitions that are highlighted here on page 400.</p> <p>6 Were you the case investigator?</p> <p>7 A. Yes, I was.</p> <p>8 Q. And I believe you testified on this before,</p> <p>9 but just for context, who was the CIRP chairperson?</p> <p>10 A. For this case the chairperson would have</p> <p>11 been Assistant Sheriff Tim Kelly.</p> <p>12 Q. And who was the secretary, the CIRP</p> <p>13 secretary? Or was there one?</p> <p>14 A. There was one. It would have been either</p> <p>15 Anna Chavez or Natalie Quinteros.</p> <p>16 Q. I want to go through this and try to get a</p> <p>17 better understanding from my viewpoint of what the</p> <p>18 total universe of documents we have are that are</p> <p>19 generated in this process.</p> <p>20 A. Okay.</p> <p>21 Q. Going into the Use of Force Board and the</p> <p>22 Tactical Review Board, that's all one hearing, right?</p> <p>23 A. Yes. It's technically two hearings but</p> <p>24 they are back to back so it's one board.</p> <p>25 Q. And that's the same day that the board is</p>
<p style="text-align: center;">Page 91</p> <p>1 (Exhibit 3 was marked for</p> <p>2 identification.)</p> <p>3 BY MR. LAGOMARSINO:</p> <p>4 Q. Exhibit 3 are documents that were attached</p> <p>5 by Metro to a recent filing before the District</p> <p>6 Court. And it was document, for the record, 40. And</p> <p>7 this appears to be Exhibit 2 to document 40, pages</p> <p>8 400 through and inclusive of 406.</p> <p>9 Do you recognize what this document is?</p> <p>10 A. Yes, I do.</p> <p>11 Q. What does it appear to be?</p> <p>12 A. It looks like within our policy manual,</p> <p>13 what specifically the Critical Incident Review</p> <p>14 Process or the CIRP process is.</p> <p>15 Q. And does this appear to be a true and</p> <p>16 correct copy of the critical incident review process</p> <p>17 that was in effect for the Tashi Farmer case?</p> <p>18 A. Assuming it's the same one referenced.</p> <p>19 This has been updated since, but I don't recall what</p> <p>20 the updates were, but yes.</p> <p>21 Q. When you say since, it's been updated since</p> <p>22 the Tashi Farmer case?</p> <p>23 A. Yeah. Our policy gets updated quite</p> <p>24 frequently.</p> <p>25 Q. Does this appear to be a true and correct</p>	<p style="text-align: center;">Page 93</p> <p>1 there and people make their presentations and the</p> <p>2 officers are there?</p> <p>3 A. Yes.</p> <p>4 Q. And that's the same proceeding where then</p> <p>5 all the information is taken back and my</p> <p>6 understanding is now there's a use of force vote and</p> <p>7 the citizens vote on that?</p> <p>8 A. Correct.</p> <p>9 Q. As well as the officers, correct?</p> <p>10 A. Yes.</p> <p>11 Q. And then there's a tactical review board</p> <p>12 that only the officers vote on?</p> <p>13 A. Correct.</p> <p>14 Q. Correct?</p> <p>15 And then what happens? Is there another</p> <p>16 deliberation besides those two?</p> <p>17 A. So there's two deliberations, one that</p> <p>18 occurs within the Use of Force Board. So I present</p> <p>19 my facts, they go deliberate, and they come back with</p> <p>20 a vote and go to the Tactical Review Board. I</p> <p>21 present conclusions. They deliberate and then come</p> <p>22 up -- come back with their vote on the conclusions.</p> <p>23 Q. Is there another presentation or just those</p> <p>24 two?</p> <p>25 A. Just those two.</p>

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25 (Pages 94 to 97)

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<p>1       Q. And then I want to make sure I'm using the      2       right lingo here.      3       So before that, let's just call it that      4       collective hearing, okay?      5       A. Okay.      6       Q. You issue some sort of a report or      7       memorandum in advance of that hearing to the board?      8       Is it called a CIRT report?      9       A. It's the CIRT report. It's our AR. So      10      once that report is completed, we give it to our      11      chain of command so that they can proofread and go      12      through everything. Once that is finalized, it will      13      go out to our SMEs and SMEs will review that, which      14      are subject matter experts.      15      Q. Okay. So they review that and then it goes      16      to the board?      17      A. Correct.      18      Q. Are the officers allowed either before or      19      during the hearing, or their representatives, to      20      review the CIRT report?      21      A. Yes. And that includes the PowerPoint as      22      well.      23      Q. Are they allowed to retain a copy of the      24      CIRT report and PowerPoint?      25      A. No.</p>	<p>1       check a box, each voting member. They're collected      2       by the chair and the chairperson will tally up the      3       votes.      4       Q. Okay. So at least there's some      5       documentation of the disposition, correct?      6       A. Right. Yes.      7       Q. Similar to like in civil cases, there's      8       like a jury verdict form, maybe pretty simple, but at      9       least it delineates the decision?      10      A. Yeah. Correct.      11      Q. Okay. To your knowledge -- it says here at      12      the bottom of 401, "The Use of Force Review Board      13      will be convened once FIT submits their case to the      14      office of the District Attorney."      15      Do you know in this case if the Use of      16      Force Review Board was convened after the FIT      17      submitted the case to the DA?      18      A. I believe so.      19      Q. So going to page 403.      20      A. 403.      21      Q. I apologize, 402.      22      A. Okay.      23      Q. So under citizen Use of Force Review Board      24      members it states, "A chairperson will in conjunction      25      with the sheriff and the citizens, CIRT board,</p>
<p style="text-align: center;">Page 95</p> <p>1       Q. What's the difference?      2       A. The PowerPoint is a streamlined version of      3       the report. We use that to be like a visual      4       representation of the report.      5       Q. And what's the difference in your      6       understanding of why officers and/or their      7       representatives are allowed to review the CIRT report      8       but not allowed to retain it?      9       A. A lot of the times for legality reasons if      10      there's a criminal that fits, a case is still open,      11      we don't want that stuff to get out into the public      12      and possibly cause a biased jury if it's still going      13      through. So we retain what we have and we actually      14      won't even release it to the public until all sides      15      of the investigation are closed, both internal and      16      criminal.      17      Q. Okay. So you then have the Use of Force      18      Board comes back and it issues dispositions?      19      A. Correct.      20      Q. Are those dispositions in writing?      21      A. It's on a voting sheet.      22      Q. Okay.      23      A. And so it's actually kind of in the same      24      format here. And there's check boxes next to the      25      four dispositions and they go through and actually</p>	<p>1       co-chairs develop criteria for the identification,      2       recruitment, selection and training of citizens to      3       serve as members of the Use of Force Review Board."      4       Is that criteria in writing, to your      5       knowledge?      6       A. I don't know.      7       Q. And then when we were talking about      8       citizens receiving training before, is it the CIRP      9       training program which you were referring to?      10      A. Yes.      11      Q. And the Use of Force Review Board and      12      Tactical Review Board are also required to review the      13      CIRT investigative file, correct?      14      A. Correct, yeah.      15      Q. Do they review the entire CIRT      16      investigative file?      17      A. Yes. They get access to all the      18      statements, any CSA diagrams, crime scene diagrams,      19      all interviews that were done by CIRT and FIT, and      20      they also have -- were also privy to FIT's total      21      investigation, complete investigation.      22      Q. And I understand that they have access to      23      it. Do you know of any mechanism in place to verify      24      that they have reviewed the entire file?      25      A. They have to come up to our office and</p>

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**\* \* \* Videotaped Deposition \* \* \***

26 (Pages 98 to 101)

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<p>1 physically check out a binder or a case file.      2 Q. And then how do you verify that they've      3 actually read it? I mean to me -- let me withdraw      4 that question.      5 This is a big CIRT file, right?      6 A. It's -- I believe I have three binders for      7 this case, yes.      8 Q. How do you verify that they've actually      9 read that file?      10 A. I mean, we don't do pop quizzes or anything      11 with them. But when they come to the board, they're      12 expected to have read the material so we're not      13 asking the same questions over and over again.      14 Q. All right. Going to 403.      15 A. Okay.      16 Q. States "The CIRP chairperson will," and      17 then it lists some items there 1 through 6.      18 Going to the 4B, it says, "The TRB will      19 vote on CIRT conclusions based on the majority vote,      20 either validating, overturning, modifying each of the      21 conclusions presented by CIRT."      22 So you present conclusions, correct?      23 A. Yes.      24 Q. Did you present approximately 20?      25 A. Yeah. There's quite a few, yes, sir.</p>	<p>1 include that he did not have -- his radio traffic he      2 didn't provide. He lost sight of the subject. He      3 was by himself.      4 And there's a fourth one there I can't      5 recall off the top of my head, but that all      6 encompassed into one conclusion of the violation of      7 the foot pursuit policy.      8 Q. Was a determination made that he would have      9 probable cause to --      10 A. Yeah. He had -- when we spoke with our      11 SMEs, he had reasonable suspicion.      12 Q. All right. So we have the radio traffic,      13 two findings. Dispatcher, conclusion. The foot      14 pursuit. What's the next one?      15 A. The next one would have been the use of the      16 ECD, electronic control device. After the first use,      17 it was -- it should have been deemed ineffective.      18 However, he continued to use it and that was a      19 violation of our policy. And the duration of each      20 trigger pull.      21 MR. McNUTT: I'm sorry, did you say after      22 the first use?      23 THE WITNESS: Correct.      24 BY MR. LAGOMARSINO:      25 Q. And then the duration, how did he violate</p>
<p style="text-align: center;">Page 99</p> <p>1 Q. Do you remember many of them as you sit      2 here today?      3 A. Probably the majority of them, I would say.      4 Q. Can you take us through the conclusions. I      5 understand, but just for the record, that you're not      6 expected to recite them word by word.      7 A. Okay.      8 Q. But just generally can you tell us what      9 they are?      10 A. Uh-huh. The first one would have been      11 radio traffic communication. And there was two      12 negatives, one for Officer Lopera and one for      13 Officer Lif. And it was both the fact that they did      14 not utilize their radio and provide radio traffic.      15 The third conclusion would have been for      16 communications bureau which encompasses our call      17 takers and dispatchers, and that was a positive      18 conclusion saying that they acted in accordance with      19 their policies and training.      20 The next conclusion -- sorry, format has      21 changed. Our next one would have been the foot      22 pursuit policy which Officer Lopera violated.      23 Q. How did he violate that?      24 A. There's eight indicators in policy for when      25 a foot pursuit should be continued and that was to</p>	<p style="text-align: center;">Page 101</p> <p>1 the duration?      2 A. By policy it's when you pull the trigger      3 it's got a five-second spark display. However, I      4 believe in the last trigger pull, he held it down for      5 approximately nine seconds.      6 Q. Okay. What was the next one?      7 A. I believe it was empty hand strikes.      8 Q. And that was for Lopera?      9 A. Yes.      10 Q. Also negative conclusion?      11 A. Negative conclusion.      12 Q. And why was it negative?      13 A. It was excessive.      14 Q. Okay.      15 A. Next one was LVNR, which we previously      16 stated had --      17 Q. Let me interrupt you. Sorry.      18 How many strikes did he use, approximately?      19 A. Approximately, I believe it was -- in the      20 report I put 13, 12 or 13 strikes, approximately.      21 Q. And were they all excessive or were they      22 excessive only after a certain number?      23 A. All excessive.      24 Q. Okay. All right. So I'm sorry, the next      25 one was LVNR?</p>

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 \* \* \* Videotaped Deposition \* \* \*

27 (Pages 102 to 105)

Page 102	Page 104
<p>1        A. LVNR, and that was rolled into a      2        truthfulness. So it was a completely separate      3        conclusion. So it was the excessive hand strikes,      4        and then LVNR and hand strikes moved into a      5        truthfulness conclusion.</p> <p>6        Q. Okay.</p> <p>7        A. Next one would have been medical      8        intervention which was positive for the officers who      9        arrived on the scene. And that was to include the      10      request to expedite medical several times.</p> <p>11       We had two negative conclusions for      12      supervision and that would be for Sergeant Crumrine.</p> <p>13       Q. Okay. And can you tell me about those?</p> <p>14       A. Neglect of duty. And that was for failure      15      to take command and control of a critical incident.</p> <p>16       Q. And what else?</p> <p>17       A. And this one they rolled -- this is the one      18      that they modified, I think, in the voting and I      19      can't remember how it was modified. There were two.</p> <p>20       Q. So there were two supervision-based      21      conclusions. One was a neglect of duty for failure      22      to establish command and control at the scene?</p> <p>23       A. Yes.</p> <p>24       Q. And what was the other?</p> <p>25       A. I can't remember what it was.</p>	<p>1        it is when we had that resident officer that violated      2        the policy for low lethal, in that conclusion we said      3        that there was a policy failure on the department      4        because it failed our resident officer from utilizing      5        a low lethal option instead of going right to      6        handgun. So in this case there were no policies that      7        were restrictive on the officers.</p> <p>8        Q. So is it fair to say, and please don't      9        hesitate to disagree with me, but unless you      10      otherwise noted that a policy was violated,      11      everything else was according to policy, correct?</p> <p>12       A. No. Yeah, this is kind of a tough one to      13      explain. It's -- we look at our policies. Do we      14      need to change any of our policies because they were      15      too restrictive on an officer.</p> <p>16       So it's not necessarily were any policies      17      violated because obviously we have negative      18      conclusions that policies were violated. This is      19      looking at do we need to change a policy altogether      20      to make our department better.</p> <p>21       Q. Okay. So no negative policy. I get that      22      with the explanation. So what was the next one?</p> <p>23       A. It would have been training. And this is      24      where we see all of our involved officers and witness      25      officers were within their compliance of our</p>
<p style="text-align: center;">Page 103</p> <p>1        Q. Okay. Probably look at the documentation      2        to find out, right?</p> <p>3        A. Yeah. I would have to.</p> <p>4        Q. Okay. What's the next one?</p> <p>5        A. Did we get medical intervention already?</p> <p>6        Q. We do. Because they expedited.</p> <p>7        A. There's a negative for body-worn cameras.</p> <p>8        Q. Is it like multiple negatives for each      9        officer or --</p> <p>10       A. Yeah. This one, what we did was put it      11      under a general conclusion and stated that multiple      12      officers failed to activate their body camera. And      13      that would have encompassed Tran, Flores, Crumrine,      14      and I believe Officer Lif was in that as well because      15      she didn't activate hers.</p> <p>16       Q. Okay.</p> <p>17       A. There were no negative for policy failures.      18      No negative for training.</p> <p>19       Q. One moment, please.</p> <p>20       A. Yep.</p> <p>21       Q. So since there was no negative for policy      22      failures, what policies does that cover?</p> <p>23       A. So what that means for us is that there      24      were no policies that failed the officers, I guess is      25      the best way to say it. The best way I can explain</p>	<p style="text-align: center;">Page 105</p> <p>1        training. So did they attend AOST, advanced officer      2        safety training; RBT, reality-based training; were      3        they qualified on their firearms.</p> <p>4        So with that there was no negative.      5       Everyone was compliant with their training.</p> <p>6       Q. So on that particular one, it's not an      7       assessment whether they acted within their training,      8       it's more were they current on their training on the      9       day of the incident?</p> <p>10       A. Correct.</p> <p>11       Q. Okay. So far I've got roughly 13.</p> <p>12       A. There might have been two actually for      13      medical, because the request for -- to expedite      14      medical. And then we had two officers, I believe      15      it's Kravetz and Amburgey, that performed CPR. We      16      gave them a positive conclusion for jumping in and      17      doing that.</p> <p>18       Q. If they're not required to do CPR, then why      19      would it be part of the assessment?</p> <p>20       A. Because they went above and beyond.</p> <p>21       Q. There was no finding of above and beyond      22      for Tran, Flores or Crumrine, correct?</p> <p>23       A. Correct.</p> <p>24       Q. All right.</p> <p>25       A. We said body cam, right?</p>

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**\* \* \* Videotaped Deposition \* \* \***

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<p>1       Q. Yes.</p> <p>2       A. Preplanning. There was no preplanning.</p> <p>3       Q. So that would be a negative conclusion?</p> <p>4       A. Yes. And that would have been for Flores,</p> <p>5       Tran. There was no communication between Officer</p> <p>6       Lopera and Lif at the start of the incident.</p> <p>7       Q. Okay.</p> <p>8       A. That would have been a negative conclusion,</p> <p>9       I believe, under contact and cover.</p> <p>10      There's a couple more I know I'm</p> <p>11      forgetting. I just can't remember.</p> <p>12      Q. Okay. Which subject matter experts did you</p> <p>13      consult as part of this investigation?</p> <p>14      A. We had a search and -- we had two search</p> <p>15      and seizure SMEs. We had a use of force SME and an</p> <p>16      LVNR SME.</p> <p>17      Q. Who was the search and seizure?</p> <p>18      A. We had Sergeant Don Fielesman. We also</p> <p>19      had -- what was his name? They are a part of our</p> <p>20      search and seizure. I can go back and find out who</p> <p>21      it was, but I remember working with Fielesman quite a</p> <p>22      bit on this one.</p> <p>23      Q. Bland was LVNR?</p> <p>24      A. Yes.</p> <p>25      Q. And who was the use of force?</p>	<p>1       in a memo to the sheriff."</p> <p>2       Was that done in this case?</p> <p>3       A. Yes, it was. And apparently has to be done</p> <p>4       within three working days, if not two weeks.</p> <p>5       Q. Now, going to the section under CIRP</p> <p>6       secretary, it says Number 3, there's a notice of</p> <p>7       investigation.</p> <p>8       Was that done in this case?</p> <p>9       A. Yes, it was.</p> <p>10      Q. And that's on a document as well?</p> <p>11      A. Yes.</p> <p>12      Q. And then Number 6, "Prepare disposition</p> <p>13      forms for all board members."</p> <p>14      Was that done in this case?</p> <p>15      A. Yes, it was.</p> <p>16      Q. I think we already asked you about there</p> <p>17      was a full recording under Number 8, correct?</p> <p>18      A. Yes, there is.</p> <p>19      Q. And Garity admonishment forms that were</p> <p>20      provided to the members, correct?</p> <p>21      A. Yes.</p> <p>22      Q. It says Number 10, "Complete all completed</p> <p>23      forms following the UFRB hearing."</p> <p>24      What are the completed forms that are being</p> <p>25      referenced there?</p>
<p style="text-align: center;">Page 107</p> <p>1       A. Use of force would have been -- oh, we had</p> <p>2       an ECD, SME, which would have been Carlson, Eric</p> <p>3       Carlson.</p> <p>4       Q. K-a-r-l-s-o-n?</p> <p>5       A. I think it's C-a-r; C-a-r-l-s-o-n.</p> <p>6       Q. All right. And?</p> <p>7       A. And Nick Rinella.</p> <p>8       Q. For the use of force?</p> <p>9       A. It would have been Marla Stevens I believe</p> <p>10      was one of them, and then Eric Carlson as well.</p> <p>11      Q. Okay. So we have ECD, LVNR, use of force,</p> <p>12      and search and seizure?</p> <p>13      A. Yeah.</p> <p>14      Q. Okay.</p> <p>15      A. And we have body cam, too, to help us -- we</p> <p>16      have people who work in body cam and review body cam</p> <p>17      with us and give us compliance and all that stuff.</p> <p>18      Q. Okay. So going back to the exhibit. When</p> <p>19      the TRB issues their vote validated, overturning,</p> <p>20      modifying, is that on a document?</p> <p>21      A. Yes. It's like a voting sheet with the Use</p> <p>22      of Force Board.</p> <p>23      Q. Okay. All right. Then it says under</p> <p>24      Number 6, "Provide a written summary of Use of Force</p> <p>25      Review Board and tactical review of recommendations</p>	<p style="text-align: center;">Page 109</p> <p>1       A. Prior to the board -- once the board</p> <p>2       begins, the sheriff will admonish each of the</p> <p>3       involved and witness officers and they actually have</p> <p>4       to physically sign on record that they understand the</p> <p>5       Garity and the notice of the investigation.</p> <p>6       And I believe the secretary collects that</p> <p>7       and makes sure that it is actually filled out and</p> <p>8       signed.</p> <p>9       Q. And then did the subject matter experts</p> <p>10      ever draft or draft part of any of the CIRT report?</p> <p>11      A. No. Not draft, no.</p> <p>12      Q. Did they ever give you content for the</p> <p>13      report?</p> <p>14      A. We discussed, yeah. We had discussions.</p> <p>15      Q. Do they give that to you in writing?</p> <p>16      A. No. Just verbal.</p> <p>17      Q. Now, it says under Number 12, "The</p> <p>18      secretary will assist the chairperson preparing</p> <p>19      written summaries of the UFRB dispositions and RPB</p> <p>20      recommendations memo to sheriff."</p> <p>21      Are those two different -- are those</p> <p>22      summaries different than the summary that's under</p> <p>23      Number 6 under the chairperson?</p> <p>24      A. Yes. Those are different, yes. Well, I'm</p> <p>25      sorry. Let me -- the TRB recommendations memo and</p>

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29 (Pages 110 to 113)

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<p>1       the Use of Force memo are two separate documents and      2       then the disposition forms are a third separate      3       document which she is in charge of all three.      4       Q. Then it says, "File the written summary of      5       dispositions. Send a copy." I'm thinking that's the      6       internal oversight?      7       A. Constitutional police.      8       Q. Thanks. Then under number 15 it says,      9       "Document vote and appropriate comments on the Use of      10      Force Review Board disposition report."      11      What does that mean?      12      A. So she actually sits with the chair when he      13      meets with the sheriff and that is because he can't      14      remember everything that happens. So she kind of      15      fills in as a secondary to him. She is a secretary      16      of the board and she does sit in deliberations.      17      Q. Does she take notes of what's being said in      18      those deliberations?      19      A. I don't know. I'm not privy to anything in      20      deliberations.      21      Q. Well, it's either going to be off her      22      memory or notes?      23      A. Either of those two, right.      24      Q. Under number 4 it says, "Ensure the      25      physical evidence, photograph, enlargements, diagrams</p>	<p>1       lesson plans that were utilized.      2       Q. Going to page 404. What is an involved      3       member?      4       A. So our definition of involved member is the      5       person who influenced the force, whether that be the      6       trigger puller, per se, person driving the vehicle,      7       could be a supervisor who directs a use of force that      8       can be involved.      9       Q. So Lopera, Crumrine, Tran and Flores would      10      be classified as involved persons?      11      A. In this case, no. Technically for you,      12      yes, they were all involved. However, the way we see      13      it in the internal was they were subject officers      14      because there was policy violations and that's just      15      an internal term that we use.      16      Q. All right. Under Number 3 it says, "Be      17      authorized to access their own individual statements,      18      communication, audio, video, diagrams related to      19      movement at the scene. The FIT officer's report and      20      the CIRT administrative report prior to the hearing."      21      So who was authorized to access all of this      22      information in this case?      23      A. So this is part of the binder that they      24      come up and we do -- we run it through the PowerPoint      25      and at this time is where they have the opportunity</p>
<p style="text-align: center;">Page 111</p> <p>1       and other essential items are available at UFRB      2       meeting."      3       What physical evidence was used in that      4       meeting, the UFRB? I'll ask a better question.      5       Was there physical evidence used during the      6       UFRB meeting?      7       A. For this particular Lopera case, I don't      8       think there was any physical evidence other than the      9       LVNR video. But in previous, we have used stop      10      sticks. Load without a shotgun just to kind of      11      educate our citizens what it is when we refer to      12      certain terms.      13      Q. What about photographic enlargements, were      14      any used in this case?      15      A. Any crime scene documentation or if we have      16      body camera stills or stills from the Venetian      17      security, if we need to enlarge that, we will.      18      Q. Was that done in this case, do you know?      19      A. I believe it was.      20      Q. Were diagrams created?      21      A. Yes. Crime scene diagrams.      22      Q. And were there any other essential items      23      that you can recall at this time that were used in      24      this case?      25      A. Yeah. We had different policies, training,</p>	<p>1       to go through the binder and see the statements, the      2       written visual statements. They get to see all the      3       audio, video, anything related to their      4       investigation. They get to see that but they can't      5       take that with them.      6       Q. All right. And then the next document      7       says -- strike that.      8       The next sentence says, "Bureau commander      9       of the involved member will document the vote and      10      appropriate comments on the UFRB disposition report."      11      Have you ever seen one of those UFRB      12      disposition reports?      13      A. I have not. We are not privy to that.      14      Q. Is it your understanding when someone says      15      document the vote that it's documented?      16      A. Yes.      17      Q. Going to the next section, what is the      18      LVMPD181 Use of Force Review Board disposition      19      report?      20      A. That's just the voting sheet. I don't know      21      what -- yeah, I believe that's the voting sheet.      22      Q. Going to page 405, please, at the bottom      23      states "CIRT will complete its review and report on      24      its findings at the Use of Force Review Board."      25      Is that a different document than what</p>

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 \* \* \* Videotaped Deposition \* \* \*

30 (Pages 114 to 117)

<p style="text-align: center;">Page 114</p> <p>1       we've been talking about so far today?</p> <p>2       A. No. The report is an AR, administrative</p> <p>3       report.</p> <p>4       Q. Okay.</p> <p>5              (Exhibit 4 was marked for</p> <p>6              identification.)</p> <p>7       BY MR. LAGOMARSINO:</p> <p>8       Q. This is the CIRT statement of Ashley Lif,</p> <p>9       again excerpts. Do you see that?</p> <p>10      A. Yes.</p> <p>11      Q. And "KK" on the first page is you, correct?</p> <p>12      A. That is me, yes.</p> <p>13      Q. And did you tell Ashley Lif prior to your</p> <p>14       arrival that you failed to activate your body-worn</p> <p>15       camera. When a foot -- a foot pursuit was initiated,</p> <p>16       you failed to employ the tactics as outlined in the</p> <p>17       foot pursuit?</p> <p>18      A. Yes.</p> <p>19      Q. Going to 1744, next page. Did Lif tell you</p> <p>20       "I did not interpret a foot pursuit had ensued" at</p> <p>21       line 13?</p> <p>22      A. Yes, she did.</p> <p>23      Q. Is that consistent with the video footage?</p> <p>24      A. Yes.</p> <p>25      Q. And how is that consistent?</p>	<p style="text-align: center;">Page 116</p> <p>1       MR. ANDERSON: Hey, Andre, before we get</p> <p>2       started, what are you thinking on timeline?</p> <p>3       MR. LAGOMARSINO: Probably going to go for</p> <p>4       a while, until at least 4:00.</p> <p>5       MR. McNUTT: Okay.</p> <p>6       MR. LAGOMARSINO: I want to leave some time</p> <p>7       for you guys to ask questions.</p> <p>8       MR. McNUTT: Craig has got a lot.</p> <p>9       BY MR. LAGOMARSINO:</p> <p>10      Q. So was Yant present?</p> <p>11      A. Yes, he was.</p> <p>12      Q. And what does PEAP stand for?</p> <p>13      A. It's our equivalent to -- it's -- I'm</p> <p>14       totally drawing a blank. We have officers that are</p> <p>15       peer officers that come out and talk to you if</p> <p>16       they're having a hard time. I just can't remember</p> <p>17       what the acronym stands for.</p> <p>18      Q. And is Bryan Yant writing things down?</p> <p>19      A. Excuse me?</p> <p>20      Q. When he's in those meetings, is he writing</p> <p>21       things down or was he writing things down?</p> <p>22      A. And this one I don't remember, but normally</p> <p>23       he would, yeah.</p> <p>24      Q. And he's not a lawyer, correct?</p> <p>25      A. No.</p>
<p style="text-align: center;">Page 115</p> <p>1       A. The way she had articulated to us is that</p> <p>2       she was handed -- Officer Lopera handed her coffee,</p> <p>3       she turned around to set it down. She's out of view</p> <p>4       from surveillance inside the Venetian for ten</p> <p>5       seconds, and by that time Officer Lopera and Farmer</p> <p>6       had already exited into a hallway. And by the time</p> <p>7       she had turned around. You see her coming -- walking</p> <p>8       kind of looking for everyone. So assuming.</p> <p>9       Q. Where did they get coffee from?</p> <p>10      A. There was a Coffee Bean located just</p> <p>11       adjacent to that hallway.</p> <p>12      MR. ANDERSON: Do you want to take a break</p> <p>13       whenever you come to a spot?</p> <p>14      MR. LAGOMARSINO: Sure.</p> <p>15      MR. ANDERSON: You don't have to do it</p> <p>16       right now. I'm just saying in the next five or ten</p> <p>17       minutes.</p> <p>18      THE VIDEOGRAPHER: The time is</p> <p>19       approximately 2:13 p.m. We are going off the record.</p> <p>20       (A recess was taken from 2:13 p.m.</p> <p>21       to 2:25 p.m.)</p> <p>22      THE VIDEOGRAPHER: The time is</p> <p>23       approximately 2:25 p.m. We are back on the record.</p> <p>24      BY MR. LAGOMARSINO:</p> <p>25      Q. Officer Lif's CIRT statement was --</p>	<p style="text-align: center;">Page 117</p> <p>1       Police Employee Assistance Program.</p> <p>2       Q. Got it.</p> <p>3       Going to page 1749 of Lif's statement.</p> <p>4       A. Okay.</p> <p>5       Q. She says, "He didn't pose a threat in my</p> <p>6       perception to himself or others. Granted, he did go</p> <p>7       down the service hallway but that's not a threat. He</p> <p>8       wanted to get away."</p> <p>9       Did you agree with Officer Lif?</p> <p>10      A. On her perception of what she saw, yes.</p> <p>11      Q. All right. Does this appear to be a true</p> <p>12       and correct copy of excerpts from Ashley Lif's</p> <p>13       statement?</p> <p>14      A. Yes.</p> <p>15       (Exhibit 5 was marked for</p> <p>16       identification.)</p> <p>17      BY MR. LAGOMARSINO:</p> <p>18       Q. All right. This is an excerpt from</p> <p>19       Amburgey's statement as noted on the top.</p> <p>20       A. Okay.</p> <p>21       Q. So there's a question from apparently you</p> <p>22       at line 19. It says, "Okay, and why was he laid on</p> <p>23       his side, Farmer?"</p> <p>24       And then his answer was, "I laid him on his</p> <p>25       side because we're taught when someone is in our</p>

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Page 118	Page 120
<p>1 custody we don't leave them either on their back or      2 on their stomach because of the face asphyxiation      3 position."</p> <p>4 What is he referring to there? Is he      5 saying when somebody is on their back or their      6 stomach, it's the asphyxiation position?</p> <p>7 A. What he's -- it's called the recovery      8 position. It's what we're taught along with the palm      9 reviving strikes, is not to leave someone on their      10 chest but to prop them up on the side to help that      11 airway, help that breathing.</p> <p>12 Q. And was Farmer in the asphyxiation position      13 before Amburgey arrived at the scene?</p> <p>14 MR. ANDERSON: Object to the form.</p> <p>15 THE WITNESS: I don't recall.</p> <p>16 BY MR. LAGOMARSINO:</p> <p>17 Q. Next one.      18 (Exhibit 6 was marked for      19 identification.)</p> <p>20 BY MR. LAGOMARSINO:</p> <p>21 Q. So this is excerpts from the statement of      22 Sergeant Crumrine.</p> <p>23 A. Okay.</p> <p>24 Q. Before we get to this, were you able to      25 remember during the break or any other time today</p>	<p>1 Q. Going to 1636. There's a question about      2 using the MDT, so I think that's -- was it mobile      3 data terminal?</p> <p>4 A. Yes.</p> <p>5 Q. Is it policy to use mobile -- a mobile data      6 terminal on the way to an incident to try to gather      7 information about the incident?</p> <p>8 A. Is it a policy?</p> <p>9 Q. Yeah.</p> <p>10 A. I think it's more of a training and tactic.      11 I don't know if it's necessarily a policy.</p> <p>12 Q. Going all the way back to 1647.</p> <p>13 A. Okay.</p> <p>14 Q. At lines 6 through 7, I think you're      15 referring to Crumrine saying "Get your..." -- strike      16 that.</p> <p>17 PH is Patrick Hughes, correct?</p> <p>18 A. Yes, it is.</p> <p>19 Q. So Patrick Hughes is quoting Crumrine      20 saying, quote, "Get your fucking hands behind your      21 back."</p> <p>22 Is it policy to curse at subjects?</p> <p>23 MR. McNUTT: Objection. Form.</p> <p>24 THE WITNESS: There's no policy against      25 cursing.</p>
<p style="text-align: center;">Page 119</p> <p>1 what the last name was of the other Travis?      2 A. No.      3 Q. All right. So at 1620, KK is you, correct?      4 A. Yes.      5 Q. And you said to Sergeant Crumrine at lines      6 28 through 31, "Prior to your arrival, you failed to      7 activate your body-worn camera. You failed to      8 intervene while the application of the LVNR was      9 applied on the subject and you failed to take command      10 and control of the scene and ensure medical was      11 expedited in an appropriate amount of time."      12 A. I don't have that page.      13 Q. Oh. I gave you a different one.      14 So I'll just repeat the question for the      15 record.      16 So apparently we've got page 1620, correct?      17 A. Yes, I've got it now.      18 Q. And did you say the words to Sergeant      19 Crumrine prior to your arrival, "You failed to      20 activate your body-worn camera. You failed to      21 intervene while the application of the LVNR was      22 applied on the subject, and you failed to take      23 command and control of the scene and ensure medical      24 was expedited in an appropriate amount of time"?      25 A. Yes.</p>	<p style="text-align: center;">Page 121</p> <p>1 BY MR. LAGOMARSINO:      2 Q. Is -- does cursing and yelling at a subject      3 escalate the situation?</p> <p>4 MR. ANDERSON: Objection. Form.</p> <p>5 THE WITNESS: Or it can de-escalate the      6 situation.</p> <p>7 BY MR. LAGOMARSINO:      8 Q. It can be either/or?      9 A. Yes, sir.</p> <p>10 Q. Was there any discussion regarding the use      11 of profanity during your investigation?</p> <p>12 A. No, there was not.</p> <p>13 Q. I'm going back to 1655, please. So there's      14 a question from Patrick Hughes. It says, "As a      15 sergeant on a dynamic scene where officers are doing      16 potentially CPR or managing that subject that's in      17 custody, why would you take the initiative to go to      18 your car to use the MDT to run the subject?"      19 Why was that question asked?</p> <p>20 A. The reason being is because this had fallen      21 in line with the fact that Sergeant Crumrine had      22 failed to act and take control of a dynamic scene.      23 He took it upon himself to go take the decedent's ID      24 and go run him, which he could have easily passed off      25 to another officer and continue to focus on his</p>

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 \* \* \* Videotaped Deposition \* \* \*

32 (Pages 122 to 125)

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<p>1 responsibilities as a supervisor.      2 Q. And was that a conscious decision by      3 Crumrine to do that?      4 MR. ANDERSON: Objection. Form.      5 THE WITNESS: Yeah. Apparently.      6 BY MR. LAGOMARSINO:      7 Q. And he admitted there were enough officers      8 there that he could have given -- passed the ID off,      9 correct?      10 A. Yes.      11 Q. There's some discussion at page 1656 about      12 the crime of resisting a police officer, lines 18      13 through 22.      14 Do you see that?      15 A. Yes.      16 Q. Is it a crime to resist a police officer if      17 a subject's constitutional rights are being violated?      18 MR. ANDERSON: Objection. Form.      19 THE WITNESS: In this case, Sergeant      20 Crumrine perceived that the decedent was resisting      21 Officer Lopera.      22 BY MR. LAGOMARSINO:      23 Q. Let me ask the question just in general.      24 A. Okay.      25 Q. Is it a crime of resisting a police officer</p>	<p>1 MR. ANDERSON: Objection. Form.      2 THE WITNESS: I believe with the perception      3 that he saw, that could have possibly been the reason      4 why Tashi Farmer was rendered unconscious.      5 BY MR. LAGOMARSINO:      6 Q. In watching all the body cams, I noticed      7 that there were a number of officers who would tell      8 other officers to shut their body cams off when they      9 were talking about the incident.      10 Is that within policy to shut your body      11 camera off when you're talking about the incident?      12 A. I believe that policy was changed. At the      13 time I believe the policy stated when the scene is      14 static or if you're going to have a debrief of the      15 incident, that you are to turn off your body camera.      16 In this particular instance, I believe it      17 was Officer Lif that had turned her body camera off      18 and on several times. And when asked about it, she      19 had stated that it was -- that she was talking to      20 Officer Lopera and Sergeant Crumrine about what was      21 going on and what her perception was of everything,      22 so she turned off her body camera.      23 Q. Was it within policy to do that?      24 A. At the time, yes.      25 Q. Has it changed since that time?</p>
<p style="text-align: center;">Page 123</p> <p>1 if -- strike that.      2 Is it a crime for somebody to resist a      3 police officer if their constitutional rights are      4 being violated?      5 MR. ANDERSON: Objection. Form.      6 THE WITNESS: Again, it depends on --      7 generally speaking, it would depend on the totality      8 of the circumstances.      9 BY MR. LAGOMARSINO:      10 Q. So if somebody's constitutional rights are      11 being violated, it still could be a crime to resist a      12 police officer?      13 MR. ANDERSON: Objection. Form.      14 THE WITNESS: Again, without knowing all      15 the facts.      16 BY MR. LAGOMARSINO:      17 Q. 1683, please. There's a question from      18 Patrick Hughes. It says, "Did you start to think his      19 LV application of the LVNR is what caused the subject      20 to be rendered unconscious?"      21 And Crumrine said "yes," correct?      22 A. Yes.      23 Q. Do you agree with Sergeant Crumrine's      24 perception, that the LVNR is what caused Tashi Farmer      25 to be rendered unconscious?</p>	<p style="text-align: center;">Page 125</p> <p>1 A. Yes, it has.      2 Q. Has it changed because of this case?      3 A. I don't know if it's because of this case      4 or just in general.      5 Q. Is it fair to say that having somebody's      6 recorded recollection of an incident literally at the      7 time of the incident can be evidence of what occurred      8 in an incident?      9 MR. ANDERSON: Objection. Form.      10 MR. McNUTT: Form.      11 THE WITNESS: Yes.      12 BY MR. LAGOMARSINO:      13 Q. If you're shutting off the camera, then      14 you're potentially suppressing valuable evidence?      15 MR. ANDERSON: Objection. Form.      16 MR. McNUTT: Objection. Form.      17 THE WITNESS: It could be seen that way,      18 yes.      19 BY MR. LAGOMARSINO:      20 Q. Going to 1703. Patrick Hughes asked Travis      21 Crumrine, "Do you feel any time that he's applying      22 the LVNR you could have interceded to stop Officer      23 Lopera's application?"      24 Crumrine said, "I could have, yes."      25 Next question, "Do you believe you should</p>

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33 (Pages 126 to 129)

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<p>1 have?"</p> <p>2 Crumrine, "No."</p> <p>3 So based on your investigation, could</p> <p>4 Crumrine have interceded to stop the application of</p> <p>5 the LVNR?</p> <p>6 A. In our investigation, he did.</p> <p>7 Q. And based on what?</p> <p>8 A. The fact that he gave verbal commands. He</p> <p>9 attempted to help Officer Lopera, Lif and Flores take</p> <p>10 the decedent into custody at the time.</p> <p>11 Q. Did any officer ever try to remove Officer</p> <p>12 Lopera's arms from Tashi Farmer's neck?</p> <p>13 A. Physically, no. I don't think so.</p> <p>14 Q. There's a question -- there's a question on</p> <p>15 page 95 that says, "Okay. In hindsight, do you think</p> <p>16 the incident could have been approached in a way that</p> <p>17 presented less risk to yourself or others?"</p> <p>18 Answer, "Yes."</p> <p>19 Going to the next page at 1715, at line 2,</p> <p>20 Crumrine says, "Well, I -- my -- the Officer Lopera</p> <p>21 could have -- could have more appropriately chosen</p> <p>22 his force options."</p> <p>23 Do you agree as an investigator Lopera</p> <p>24 could have more appropriately chosen his force</p> <p>25 options?</p>	<p>1 BY MR. LAGOMARSINO:</p> <p>2 Q. Officer Lif asked certain officers to turn</p> <p>3 off their body cameras, correct?</p> <p>4 A. Yes.</p> <p>5 Q. Which officers do you have knowledge of</p> <p>6 Officer Lif asking to shut off their body cameras?</p> <p>7 A. I know it was -- I don't recall. It was</p> <p>8 either -- I don't recall. There was another officer.</p> <p>9 Q. Okay.</p> <p>10 To your knowledge, who are all the</p> <p>11 individuals that received your CIRT report?</p> <p>12 A. If you mean received, they've never -- they</p> <p>13 got an opportunity to read it while they were in the</p> <p>14 office but they never were allowed to leave with it.</p> <p>15 The only person that would have a copy would be</p> <p>16 Assistant Chief Tim Kelly because he is a chairperson</p> <p>17 of the board.</p> <p>18 Q. Did you send the report through your chain</p> <p>19 of command?</p> <p>20 A. Yes, I did.</p> <p>21 Q. Did you send it to a sergeant?</p> <p>22 A. Yes, I did.</p> <p>23 Q. Who was that?</p> <p>24 A. That would be Sergeant Kyle Ward.</p> <p>25 Q. Did you send it to your lieutenant?</p>
<p style="text-align: center;">Page 127</p> <p>1 MR. ANDERSON: Objection. Form.</p> <p>2 THE WITNESS: Yes. We had a conclusion of</p> <p>3 excessive use of force.</p> <p>4 BY MR. LAGOMARSINO:</p> <p>5 Q. Which options should he have chosen?</p> <p>6 MR. ANDERSON: Objection. Form.</p> <p>7 THE WITNESS: Ones that fall within the --</p> <p>8 his threat assessment.</p> <p>9 BY MR. LAGOMARSINO:</p> <p>10 Q. Which ones would those have been?</p> <p>11 A. He could have used empty hand tactics to</p> <p>12 take him into custody.</p> <p>13 Q. Any others?</p> <p>14 A. I would have to look at the model to take a</p> <p>15 look at what all options were available at the time.</p> <p>16 Q. Did you write in the report what</p> <p>17 alternative force options he could have used?</p> <p>18 A. No.</p> <p>19 Q. Do you have knowledge of Officer Lif asking</p> <p>20 officers other than Lopera to shut off their body</p> <p>21 cameras?</p> <p>22 MR. McNUTT: I'm sorry, other than --</p> <p>23 actually, just repeat it -- or read it back, please.</p> <p>24 MR. LAGOMARSINO: I am -- I can rephrase</p> <p>25 it.</p>	<p style="text-align: center;">Page 129</p> <p>1 A. Yes.</p> <p>2 Q. Who was that?</p> <p>3 A. Lieutenant Dan Bledsoe.</p> <p>4 Q. And to your knowledge, was that sent to the</p> <p>5 sheriff?</p> <p>6 A. I don't know.</p> <p>7 Q. And do you still have a copy of that</p> <p>8 report?</p> <p>9 A. It is housed in what we call an IPRO, which</p> <p>10 is our internal organization for reports and CIRT</p> <p>11 case files.</p> <p>12 Q. Did you draw a conclusion as to whether or</p> <p>13 not Lopera used the LVNR or a rear naked choke?</p> <p>14 A. I believe in the conclusion, if I remember,</p> <p>15 he referred to it as a chokehold. I can't remember</p> <p>16 the verbiage I used in the report.</p> <p>17 Q. Well, LVNR is authorized, correct?</p> <p>18 A. LVNR is authorized by the department.</p> <p>19 Q. And rear naked is not, right?</p> <p>20 A. Yes.</p> <p>21 Q. Did you draw a conclusion as to whether he</p> <p>22 used an authorized chokehold or not authorized</p> <p>23 chokehold?</p> <p>24 A. I don't remember verbatim what was in the</p> <p>25 report.</p>

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34 (Pages 130 to 133)

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<p>1       Q. Would you have presented to the board on 2       that issue?</p> <p>3       A. Yes. I believe it was an improper hand 4       placement. I can't remember.</p> <p>5       Q. Were your conclusions on whether Crumrine, 6       Tran or Flores failed to intervene based on -- strike 7       that.</p> <p>8       Was your conclusion that Tran, Flores and 9       Crumrine failed -- it's getting late for me, too. 10      I'm getting tired.</p> <p>11     You came to the conclusion that Crumrine, 12     Tran and Flores intervened, correct?</p> <p>13     A. Yes.</p> <p>14     Q. And you came to that conclusion based on 15     their statement of what they perceived, correct?</p> <p>16     A. Perceived, and the actions that they took 17     during.</p> <p>18     Q. Okay. Now, if excessive force is being 19     used by an officer, in general, surrounding officers 20     have a duty to intervene, correct?</p> <p>21     MR. ANDERSON: Objection. Form.</p> <p>22     THE WITNESS: In theory, yes.</p> <p>23     BY MR. LAGOMARSINO:</p> <p>24     Q. So if a rear naked choke was being applied, 25     which is an unauthorized technique, then Tran, Flores</p>	<p>1       used, there would be no duty to intervene, correct?</p> <p>2       A. At that point, the officers would make the 3       scene safe, which would be taking the decedent into 4       custody with two handcuffs around the wrists.</p> <p>5       Q. So if there were no handcuffs, there would 6       be no duty to intervene?</p> <p>7       A. Depending on their perception and what they 8       saw at the time.</p> <p>9       Q. Okay. So let's assume that they saw that 10      he wasn't handcuffed with both wrists and he was in a 11      rear naked choke, assuming they saw that, that's a 12      hypothetical, they would have had a duty to 13      intervene?</p> <p>14      MR. ANDERSON: Objection. Form.</p> <p>15      THE WITNESS: They would have a duty to 16      take the decedent into custody and ensure that the 17      rear naked choke was released.</p> <p>18      BY MR. LAGOMARSINO:</p> <p>19      Q. You were asked the question in your prior 20      deposition, "Okay. And if there was a rear naked 21      choke, he should have stopped it?"</p> <p>22      And your answer was, "Had he recognized 23      there was a rear naked choke or an LV, had he 24      recognized the rear naked choke, yes."</p> <p>25      Do you agree with that?</p>
<p>1       and Crumrine should have intervened, correct?</p> <p>2       MR. ANDERSON: Objection. Form.</p> <p>3       THE WITNESS: In this scenario, we asked 4       about the hand placement. And because they were 5       taking action, taking Farmer into custody, they 6       cannot recall the hand placement. And so to the best 7       of their knowledge they knew Officer Lopera was using 8       an LVNR.</p> <p>9       BY MR. LAGOMARSINO:</p> <p>10      Q. That's fair. I'll give you a hypothetical 11      situation.</p> <p>12      If they determined that a rear naked choke 13      was being used as opposed to LVNR, they would have 14      had a duty to intervene?</p> <p>15      MR. ANDERSON: Objection. Form.</p> <p>16      THE WITNESS: Hypothetically, once the 17      decedent was taken into custody, hypothetically, yes, 18      they would have a duty to intervene if that LVNR or 19      chokehold was being -- continued being used.</p> <p>20      BY MR. LAGOMARSINO:</p> <p>21      Q. So you define custody as two handcuffs on 22      both wrists?</p> <p>23      A. Yes.</p> <p>24      Q. So in your view, that if a rear naked choke 25      was being applied before the handcuffs were being</p>	<p>1       A. Once the scene was safe and the decedent 2       was taken into custody, yes.</p> <p>3       Q. You didn't say that in your prior 4       deposition, is that correct?</p> <p>5       A. I don't have it in front of me. 6       (Exhibit 7 was marked for 7       identification.)</p> <p>8       BY MR. LAGOMARSINO:</p> <p>9       Q. So going to page 58, line 18. The question 10      is, "Okay. And if there was a rear naked choke, he 11      should have stopped it. Objection. Form." 12      Objection. Form. Go ahead."</p> <p>13      And then the witness says: "Had he 14      recognized there was a rear naked choke or an LV, had 15      he recognized the rear naked choke, yes."</p> <p>16      Did you testify that way in your prior 17      deposition?</p> <p>18      A. I believe it was, yeah, by policy. He 19      should have stopped it.</p> <p>20      Q. And then going to page 59, you were asked, 21      "And if Officer Tran had known there was a rear naked 22      choke being applied, he should have stopped it, 23      intervened. Objection. Form."</p> <p>24      And then what was your answer?</p> <p>25      A. "Yes."</p>

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35 (Pages 134 to 137)

<p style="text-align:center">Page 134</p> <p>1 Q. And then the next question says, "And if      2 Officer Flores knew a rear naked choke was being      3 applied, he should have intervened. Same objection."      4 And then what was your answer?      5 A. "Yes."      6 Q. Now, we've talked a little bit about just      7 accepting an officer's statement as true when they      8 say it's based on their perception.      9 Do you recall that testimony?      10 A. Yes, I do.      11 Q. And I'm assuming they don't provide mind      12 reading training at Metro yet, correct?      13 MR. ANDERSON: Objection. Form.      14 THE WITNESS: No.      15 BY MR. LAGOMARSINO:      16 Q. So if an officer is telling you that      17 something was done based on their perception but      18 they're lying, and you don't know they're lying, then      19 you just have to accept it as the truth, correct?      20 A. Yes.      21 Q. And that's pursuant to policy, correct?      22 MR. ANDERSON: Objection. Form.      23 THE WITNESS: Yeah.      24 BY MR. LAGOMARSINO:      25 Q. Going to page 69. I apologize, going to</p>	<p style="text-align:center">Page 136</p> <p>1 conclusion?      2 A. No.      3 Q. Did Officer Bland ever tell you whether he      4 had the opinion that an LVNR was used or a rear naked      5 choke?      6 A. Based on the hand placement, I believe it      7 was a -- he believed it to be a rear naked choke of      8 that non-encircling arm.      9 Q. He told you that?      10 A. It was, yeah, part of the discussion that      11 we had with everyone.      12 Q. Do witnesses to an incident change their      13 story from time to time? Let me rephrase.      14 Did witnesses in this case change their      15 story about what happened?      16 A. No.      17 Q. Did you ever undertake an assessment to      18 determine whether people were giving inconsistent      19 statements?      20 A. No. I don't know how I would do that.      21 Q. Or did you compare prior statements to      22 current statements?      23 A. Some of the witness officers had gave FIT      24 statements which we reviewed.      25 Q. Did you make any comparisons between what</p>
<p style="text-align:center">Page 135</p> <p>1 page 68. It says -- line 6, it says, "Okay. Turn      2 over to the next page, please. It says Officer      3 Lopera told Officer Flores in the ride back what      4 happened. During the conversation he stated I      5 started wailing on the dude, then I rear mounted and      6 choked him out."      7 And do you take that as it could be either      8 LVNR or a rear naked choke, that particular quote?      9 A. Yes.      10 Q. When Lopera said apparently at 9:34 the      11 body camera and it's referred to here in the      12 transcript, that "I started punching him rear      13 naked -- rear naked at his ass. He went out."      14 Do you take that to mean a rear naked      15 choke?      16 A. Yes.      17 Q. Who helped you formulate your conclusions      18 in your report?      19 A. We -- the CIRT team, and then our meeting      20 with SMEs.      21 Q. Did you initially ever have a conclusion      22 that Crumrine, Tran or Flores did not properly      23 intervene?      24 A. No.      25 Q. Did anybody tell you to make that</p>	<p style="text-align:center">Page 137</p> <p>1 they were telling you in the FIT and what they were      2 telling you in the CIRT?      3 A. We looked over their FIT report. And if we      4 had questions, we would clarify in our interview.      5 Q. And after that interview did you compare      6 the statements of both? Or let me ask a better      7 question.      8 Did you comment on any inconsistent      9 statements in the report that you submitted to CIRT?      10 A. One we had with Officer Lif, I believe in      11 her FIT statement she had said something in reference      12 of foot pursuit, and then we clarified that in CIRT.      13 And that's when she stated she did not perceive a      14 foot pursuit had occurred.      15 Q. If a subject is in a LVNR not handcuffed      16 but they're not moving or resisting, are you supposed      17 to release the LVNR?      18 A. You can release it, but it's a controlling      19 technique to leave the arm encircling. That will      20 assist with your arriving officer to help take that      21 person into custody or put two cuffs around their      22 wrists.      23 Q. Did Tran ever see Farmer move or resist?      24 A. In his statement he provided to us, I don't      25 believe he did.</p>

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36 (Pages 138 to 141)

<p style="text-align: center;">Page 138</p> <p>1 Q. As part of your investigation, did you make 2 an assessment as to when Tashi first became 3 unconscious? 4 A. No, because I don't know when he first 5 became unconscious. 6 Q. As part of your investigation, did you make 7 an assessment as to what role the Taser may have 8 played in causing his cardiac arrest? 9 A. That would be something that FIT would 10 follow up with the coroner's office. 11 Q. Are you generally aware of Bryan Yant's 12 history in terms of officer-involved shootings? 13 A. I am. 14 Q. And what are you aware of? 15 A. He was involved in a shooting where he shot 16 an individual in the bathroom. 17 Q. Do you know of any other shootings? 18 A. No. 19 Q. Were you aware that he was involved in two 20 prior shootings of unarmed individuals? 21 A. I know he was involved in a prior shooting. I didn't know how many. 22 Q. And the prior shooting you're referring to is the Trevon Cole case? 23 A. Yeah. With the bathtub, yeah.</p>	<p style="text-align: center;">Page 140</p> <p>1 Q. Were you ever promised by anybody that your 2 investigation in this case would remain completely 3 confidential? 4 A. Completely confidential? 5 Q. Yeah. 6 A. No. 7 Q. Did you ever promise any witnesses that 8 their statements would be completely confidential? 9 A. No, because in Garity it tells them that 10 their witness statements can be used against Officer 11 Lopera in the court. 12 Q. Okay. Were you part of the deliberation 13 process by the board as to whether any policies were 14 violated? 15 A. No. I was not. 16 Q. Have you ever heard of something called the 17 deliberative -- deliberate process privilege? 18 A. No. 19 Q. Did you make a conclusion that Tashi was 20 trying to carjack a passing vehicle? 21 A. Did I make a conclusion? 22 Q. Yeah. 23 A. No. That was part of Officer Lopera's 24 perception and the reason he engaged -- or I'm 25 sorry -- the reason that he decided to deploy his</p>
<p style="text-align: center;">Page 139</p> <p>1 Q. Do you know him personally? 2 A. No. Well, I take that back. He comes in 3 to rep the officers quite a bit so I know him on a 4 personal level where I could recognize him and say hi, but outside of work I don't know him. 5 Q. Okay, fair enough. Are you on any -- I won't ask you your handles, but are you on any social 6 media applications? 7 A. I am not. 8 Q. Do you know what policy changes resulted as 9 a result of your investigation? 10 A. For Lopera? 11 Q. Yes. 12 A. We had the LVNR change, the body-worn camera policy change. I want to say something with 13 the radios because there was analysis that was done with officers having communication problems with -- 14 being within a large hotel. 15 Q. Okay. 16 A. I want to say they did some kind of -- I want to say they put more routers in. It wasn't necessarily a policy change but something we looked 17 at. 18 Q. Okay. 19 A. That's all I can recall right now.</p>	<p style="text-align: center;">Page 141</p> <p>1 ECD. 2 Q. But did you make a positive or negative 3 conclusion on that issue? 4 A. Oh, no. 5 Q. Is there any difference in your view of a 6 neck restraint and a chokehold, the two terms? 7 A. Hand placement and what the training with 8 LVMPD has taught us. 9 Q. Did all the officers stop using force the 10 moment the handcuffing was complete? 11 A. Yes. 12 Q. I know we had some discussion about CPR, 13 but was CPR done in this case? 14 A. Yes, it was. 15 Q. By who? 16 A. I want to say it was Officer Kravetz and possibly his trainee, which was a female officer. I can't remember her name, Vontagen possibly. And then another officer started CPR, so I think maybe three or four total. They kind of switched off. 17 Q. And your definition of CPR, does that include mouth-to-mouth resuscitation? 18 A. Yes and no. It's an option, but I believe 19 that we are actually trained not to do mouth to mouth</p>

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 \* \* \* Videotaped Deposition \* \* \*

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<p>1 or touch any subjects while on the course of a duty.      2 Q. You're trained not to do it?      3 A. Not necessarily trained because we're not      4 trained on CPR, but it's kind of a stance that most      5 officers take.      6 Q. Was mouth to mouth used in this case?      7 A. I don't believe it was.      8 Q. Okay. Did you draw any conclusions as to      9 the cause of death?      10 A. No, I did not.      11 Q. Did you present any autopsy photos at all      12 to the CIRT board?      13 A. We presented one that showed the swelling      14 under the decedent's -- one of his eyes. I don't      15 remember which one it was.      16 Q. When you were working in the CIRT -- is it      17 a department or --      18 A. Bureau.      19 Q. Bureau. You were a full-time employee,      20 correct?      21 A. Yes.      22 Q. And did you dedicate all your time to      23 working on CIRT at the time?      24 A. Yes.      25 Q. Did you personally provide recommendations</p>	<p>1 when they got notification that he was being      2 transported over to UMC -- did he even go to UMC? I      3 think he went to UMC.      4 Q. To the hospital?      5 A. Yeah. To the hospital. I'll have to look      6 at my report but I remember when the -- he was in      7 critical, I believe that's when we got the      8 notification.      9 Q. Did anybody from CIRT go to the scene of      10 the incident?      11 A. Yes. I believe it was Greg Watkins, Kyle      12 Ward, Lieutenant Dan Bledsoe and someone else. I      13 can't remember.      14 Q. Was there an initial briefing that occurred      15 after the incident with respect to CIRT?      16 A. On scene?      17 Q. Anywhere.      18 A. There was one on scene. I was not a part      19 of that one. But afterwards, we all got together. I      20 believe it was the next working day we all got      21 together and discussed, okay, this is what we have      22 and went over body cam and surveillance.      23 Q. Did anybody from CIRT do a walk-through of      24 the scene, to your knowledge?      25 A. No. Because the -- the attorney had</p>
<p style="text-align: center;">Page 143</p> <p>1 for policy changes?      2 A. No. That was part of a group discussion.      3 But I was part of those discussions.      4 Q. In your report that you gave to the board,      5 did you personally provide recommendations for policy      6 changes ahead of the hearing?      7 A. Oh, no.      8 Q. In your view, what's the purpose of CIRT?      9 A. It's to make our department safer.      10 Maximize safety. Minimize the risk.      11 Q. What's the purpose of a public safety      12 statement?      13 A. That is to help FIT start to gather      14 evidence if we have -- so if we know how many rounds      15 were fired, we can start looking to see if there's      16 any other -- potential other victims, where we need      17 to start closing in our crime scene. Just the very      18 general idea of what we're looking at.      19 Q. Okay. Do you know when CIRT was first      20 notified of this incident?      21 A. I wasn't a communicator because I wasn't an      22 OIS. I want to say this occurred -- I believe it was      23 within 45 minutes, I believe.      24 Q. Of?      25 A. Of the -- I'm trying to think if it was</p>	<p style="text-align: center;">Page 145</p> <p>1 stopped the questioning, the PSS with Officer Lopera.      2 And I believe -- I believe actually Greg Watkins did      3 a quick walk-through but not a full walk-through of      4 each time and -- each movement of Officer Lopera.      5 Just kind of a stand back and just see the crime      6 scene.      7 Q. Do you know why FIT walk-throughs are not      8 recorded?      9 A. It has something to do with the criminal      10 investigation because they're voluntary at the time,      11 I believe.      12 Q. And CIRT did not participate in the same      13 walk-through procedure that FIT did, correct?      14 A. Correct. It's a different procedure.      15 Q. In your report to the CIRT board, did you      16 perform an evaluation of -- strike that.      17 Did you evaluate the application of      18 training?      19 A. As far as?      20 Q. Lopera's actions.      21 A. Whether they're within training?      22 Q. Yeah.      23 A. Yeah, that's -- yes. And we had a named      24 inclusion for excessive use of force that was outside      25 training and policy.</p>

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Page 146	Page 148
<p>1 Q. And did you make any recommendation in the      2 CIRT report as to what internal rules or practices      3 would be required?</p> <p>4 A. No. I'm sorry, I don't know if I fully      5 understand that question.</p> <p>6 Q. I'll skip it.</p> <p>7 A. Okay.</p> <p>8 Q. Lopera, did he give a FIT statement?</p> <p>9 A. He did not.</p> <p>10 Q. Does CIRT share their witness statements      11 with FIT?</p> <p>12 A. No, unless they're requested through the      13 District Attorney's office.</p> <p>14 Q. So if the DA asks for the CIRT statements,      15 they are provided to the DA?</p> <p>16 A. Yeah. There's a process they go through,      17 but in the long run, yes.</p> <p>18 Q. Were you ever guaranteed by anybody that      19 the CIRT report would not be disseminated?</p> <p>20 A. No.</p> <p>21 Q. I'm assuming you've been, based on your      22 testimony today, you've been trained on various      23 constitutional amendments, correct?</p> <p>24 A. Yeah.</p> <p>25 Q. Have you ever been trained on the 14th</p>	<p>1 released by the judge, would you continue to be      2 honest and independent in your discussion in future      3 cases if you're the subject of a CIRT investigation?</p> <p>4 A. Yes.</p> <p>5 Q. If you later, through some unfortunate      6 event become the subject of a CIRT team      7 investigation, would you be irreparably damaged by      8 releasing the report in this case?</p> <p>9 MR. ANDERSON: Objection. Form.</p> <p>10 THE WITNESS: No.</p> <p>11 MR. LAGOMARSINO: All right. I think I'm      12 going to have about another half hour. Why don't we      13 take a quick break and it will help me go through      14 some of my questions and eliminate them. So let's      15 take ten minutes or five minutes.</p> <p>16 THE VIDEOGRAPHER: The time is      17 approximately 3:14 p.m. We're going off the record.      18 (A recess was taken from 3:14 to      19 3:20 p.m.)</p> <p>20 THE VIDEOGRAPHER: The time is      21 approximately 3:20 p.m. We are back on the record.</p> <p>22 BY MR. LAGOMARSINO:</p> <p>23 Q. All right. Did Lopera ever express, to      24 your knowledge, that he was scared of Tashi Farmer?</p> <p>25 MR. McNUTT: Objection. Form. If that was</p>
<p style="text-align: center;">Page 147</p> <p>1 Amendment, due process right to familial relations?</p> <p>2 A. No.</p> <p>3 Q. Have you ever been trained on supervisor      4 liability in the constitutional rights context?</p> <p>5 A. Not in constitutional, no.</p> <p>6 Q. Have you ever heard of a Monell claim?</p> <p>7 A. No.</p> <p>8 Q. Is it your understanding that Lopera was      9 allowed to retire?</p> <p>10 MR. McNUTT: Objection. Form.</p> <p>11 THE WITNESS: It was my understanding it      12 was a medical retirement.</p> <p>13 BY MR. LAGOMARSINO:</p> <p>14 Q. And do you have an understanding of what      15 his medical condition was that he was allowed to      16 retire from?</p> <p>17 A. I do not.</p> <p>18 Q. Is it fair to say that the deliberations      19 arising out of this incident took place after you      20 issued the CIRT report?</p> <p>21 A. Yes.</p> <p>22 Q. Do you know whether this CIRT report has      23 been released in this case?</p> <p>24 A. I don't believe it has, but I don't know.</p> <p>25 Q. Okay. If it ultimately gets approved to be</p>	<p style="text-align: center;">Page 149</p> <p>1 a statement made during the CIRT process, I'll      2 instruct the witness not to answer.</p> <p>3 THE WITNESS: It was.</p> <p>4 MR. LAGOMARSINO: Okay. Did -- so we'll      5 follow the same procedure. I'm assuming if the judge      6 orders the transcript to be produced, that will      7 probably answer itself.</p> <p>8 MR. ANDERSON: You don't need to ask her      9 yet. You'll have the answer.</p> <p>10 MR. McNUTT: You don't need to ask her.</p> <p>11 BY MR. LAGOMARSINO:</p> <p>12 Q. Did Flores ever express that he was scared      13 of Tashi Farmer?</p> <p>14 A. I don't think so, but I don't recall. It      15 was in his statement.</p> <p>16 Q. Did Tran ever express that he was scared of      17 Tashi Farmer?</p> <p>18 A. I don't believe so.</p> <p>19 Q. Did Crumrine ever express that he was      20 scared of Tashi Farmer?</p> <p>21 A. Again, with Officer Flores, I don't recall.</p> <p>22 Q. Other than what's contained in the reports,      23 do you have any independent recollection of them      24 expressing that they were scared of Tashi Farmer?</p> <p>25 A. No.</p>

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 \* \* \* Videotaped Deposition \* \* \*

39 (Pages 150 to 153)

Page 150	Page 152
<p>1 Q. Did you ever draw a conclusion based on          2 your review of all the evidence that Lopera was          3 scared of Tashi Farmer?          4 MR. ANDERSON: Objection. Form.          5 THE WITNESS: No conclusion.          6 BY MR. LAGOMARSINO:          7 Q. Same question with regard to Flores, Tran          8 or Crumrine, did you draw a conclusion that they were          9 scared of Tashi Farmer?          10 MR. ANDERSON: Objection. Form.          11 THE WITNESS: No.          12 BY MR. LAGOMARSINO:          13 Q. Did you draw a conclusion that Lopera          14 expressed that he was in fear for his life?          15 A. Not a conclusion, no.          16 Q. Did Lopera express that he was in fear for          17 his life?          18 MR. McNUTT: Objection. I'll instruct the          19 witness not to answer.          20 BY MR. LAGOMARSINO:          21 Q. Did Flores, Tran or Crumrine ever express          22 that they were in fear for their own lives?          23 A. Not to my recollection, no.          24 Q. Did Lopera ever say that he overreacted?          25 MR. McNUTT: Objection. Form. I'll</p>	<p>1 Q. Yes.          2 A. Yes.          3 Q. How many times?          4 A. Just a handful.          5 Q. Have you ever personally had a          6 life-threatening encounter with a citizen?          7 A. In the course of my duties as an officer?          8 Q. Yes.          9 A. Yes.          10 Q. How many occasions?          11 A. Once.          12 Q. Tell me about that incident.          13 A. It was a road rage incident where a suspect          14 was armed with a handgun. We ended up locating that          15 suspect outside of a house and he had the handgun          16 behind his back.          17 Q. Did he ever point the handgun at you?          18 A. Not at me, no.          19 Q. Did you see the autopsy photos?          20 A. Yes.          21 Q. Did you see all of them?          22 A. Yes.          23 Q. After he was killed, Tashi Farmer's organs          24 were removed, correct?          25 A. Oh, I don't know.</p>
<p>1 instruct the witness not to answer if that was a          2 statement made by Officer Lopera in the CIRT process.          3 MR. LAGOMARSINO: I think that instruction          4 has to come from --          5 MR. McNUTT: It's my privilege.          6 MR. LAGOMARSINO: That's a privilege, but          7 it's up for debate.          8 BY MR. LAGOMARSINO:          9 Q. Did Metro ever make a finding that Lopera          10 overreacted?          11 A. Not that he overreacted but it was          12 excessive use of force.          13 Q. Did Metro ever make a finding that Tran,          14 Crumrine or Flores overreacted?          15 A. No.          16 Q. Do you have any knowledge of any Metro          17 officers ever arresting innocent people?          18 MR. ANDERSON: Are you saying without,          19 like, probable cause or arrest innocent people?          20 MR. LAGOMARSINO: That's not what I asked.          21 BY MR. LAGOMARSINO:          22 Q. So my question is do you ever have any          23 knowledge of any Metro officer ever arresting          24 somebody who turned out to be innocent?          25 A. That turned out to be innocent?</p>	<p>1 Q. Did you see pictures of his brain?          2 A. No.          3 Q. Did you see pictures of his skin peeled          4 back?          5 A. For his head?          6 Q. Yes.          7 A. No.          8 Q. And his skin peeled back?          9 A. No.          10 Q. Do you believe that such pictures exist or          11 do you not know?          12 A. I don't know.          13 Q. As part of your investigation, did you          14 interview any family members of Tashi?          15 A. No.          16 Q. As part of your investigation, did you          17 secure the contents of his telephone?          18 A. No.          19 Q. Do you know if Metro secured the contents          20 of his telephone?          21 A. I don't know.          22 Q. Would the contents of his telephone be          23 relevant to your investigation?          24 A. Possibly to FIT's investigation and          25 potentially mine.</p>

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Page 154	Page 156
<p>1       Q. And how so?</p> <p>2       A. I think there was a question about him</p> <p>3       being chased across the boulevard.</p> <p>4       Q. Besides that?</p> <p>5       A. No.</p> <p>6       Q. Do the victims have any say in your</p> <p>7       investigation?</p> <p>8       A. "Victims" meaning?</p> <p>9       Q. Tashi's relatives.</p> <p>10      A. No.</p> <p>11      Q. Do they have any say in the FIT</p> <p>12      investigation?</p> <p>13      A. No.</p> <p>14      Q. Are either the FIT or the CIRT</p> <p>15      investigations, to your knowledge, conducted for the</p> <p>16      purpose of delivering justice to the family members?</p> <p>17      MR. ANDERSON: Objection. Form.</p> <p>18      THE WITNESS: I'm sorry, can you say that</p> <p>19      one more time?</p> <p>20      BY MR. LAGOMARSINO:</p> <p>21      Q. Sure. Was your investigation conducted for</p> <p>22      the purpose of delivering justice to the family</p> <p>23      members?</p> <p>24      A. My -- no. My investigation was not.</p> <p>25</p>	<p>1       Q. Okay. Do you have any role in the hiring</p> <p>2       process?</p> <p>3       A. No.</p> <p>4       Q. Have you ever had any role?</p> <p>5       A. No.</p> <p>6       Q. Were there standard safety practices that</p> <p>7       were not applied in this case?</p> <p>8       A. I don't recall.</p> <p>9       Q. Was Lopera attempting to arrest Farmer?</p> <p>10      A. In his statement to us?</p> <p>11      MR. McNUTT: I'm sorry, say again. Are you</p> <p>12      asking about Lopera's statement?</p> <p>13      MR. LAGOMARSINO: I said, "Was Lopera</p> <p>14      attempting to arrest Farmer?"</p> <p>15      THE WITNESS: And that was something that</p> <p>16      was based off of his statement.</p> <p>17      MR. McNUTT: In her opinion or --</p> <p>18      BY MR. LAGOMARSINO:</p> <p>19      Q. Did you draw a conclusion that Lopera was</p> <p>20      trying to arrest Farmer?</p> <p>21      A. Yes.</p> <p>22      Q. And did you draw a conclusion as to what</p> <p>23      Lopera was trying to arrest Farmer for?</p> <p>24      A. Again, that was in his statement.</p> <p>25      Q. So was the only basis for any conclusion</p>
<p style="text-align: center;">Page 155</p> <p>1       Q. Your investigation was conducted for the</p> <p>2       purpose of Metro's interests, correct?</p> <p>3       A. Betterment of the department, yes.</p> <p>4       Q. Did CIRT ever do an investigation of the</p> <p>5       psychological profiles generated during the hiring</p> <p>6       process of the officers involved?</p> <p>7       A. Do they do a psych -- psych eval on the</p> <p>8       officers?</p> <p>9       Q. No. When you're hired, does a psych eval</p> <p>10      happen?</p> <p>11      A. I believe so. It still does, yeah.</p> <p>12      Q. And did you look at the psych evals of the</p> <p>13      officers?</p> <p>14      A. No.</p> <p>15      Q. And CIRT doesn't do a psych eval, correct?</p> <p>16      A. No. We do not.</p> <p>17      Q. Did you become aware during your</p> <p>18      investigation that Lopera was a competitive jiu jitsu</p> <p>19      fighter?</p> <p>20      MR. McNUTT: Objection. Form.</p> <p>21      THE WITNESS: Yes, in my investigation I</p> <p>22      did learn that.</p> <p>23      BY MR. LAGOMARSINO:</p> <p>24      Q. How did you learn that?</p> <p>25      A. It was when we interviewed him.</p>	<p style="text-align: center;">Page 157</p> <p>1       you might have based on his statement?</p> <p>2       A. On his perception.</p> <p>3       MR. McNUTT: And if the answer is yes, then</p> <p>4       I'll instruct you not to answer.</p> <p>5       But just to be clear, if you have other</p> <p>6       information, I have no objection.</p> <p>7       THE WITNESS: It was all based off of</p> <p>8       Officer Lopera's statement to CIRT.</p> <p>9       BY MR. LAGOMARSINO:</p> <p>10      Q. Did Officer Lopera make any statements</p> <p>11      other than CIRT as to why he was trying to apprehend</p> <p>12      Farmer?</p> <p>13      A. I believe in one body camera clip from</p> <p>14      Officer Lopera he is explaining to someone.</p> <p>15      Q. Would you agree that Farmer was essentially</p> <p>16      unarmed?</p> <p>17      A. Yes.</p> <p>18      Q. And that Farmer was basically powerless in</p> <p>19      this situation?</p> <p>20      MR. ANDERSON: Objection. Form.</p> <p>21      MR. McNUTT: Form.</p> <p>22      THE WITNESS: Do I believe that he was</p> <p>23      powerless in this situation?</p> <p>24      BY MR. LAGOMARSINO:</p> <p>25      Q. Yeah. Well, after he was placed in the</p>

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<p>1 LVNR, was Farmer powerless?  2 MR. McNUTT: Objection. Form.  3 THE WITNESS: I think to the point he was  4 rendered unconscious, he was powerless.  5 BY MR. LAGOMARSINO:  6 Q. What power did he have?  7 A. Well, again not being there, based on the  8 officer's perception that he was -- Sergeant Crumrine  9 had tried to put his arm in a handcuff but he pulled  10 away. Again, some of this is captured on video  11 surveillance, some on body camera, but I was not  12 there.  13 Q. So basically the power to pull away?  14 A. Pull away. Fight. Again, I wasn't there.  15 Q. Was he fighting?  16 A. I don't know.  17 Q. Did you draw a conclusion as to whether  18 Farmer's constitutional rights were violated?  19 A. No.  20 Q. You made a conclusion that they weren't or  21 that you just didn't make any conclusion?  22 A. There's no conclusion on his constitutional  23 rights.  24 Q. Did you undertake any investigation to  25 determine whether LVNRs -- strike that.</p>	<p>1 out across the department in reference the use of  2 LVNR.  3 Q. Anything else?  4 A. For defense tactics, which we go through  5 every quarter, it was a refresher on the LVNR. And  6 it was very specific on the use of the LVNR, the  7 application of the LVNR and reviving techniques.  8 Q. And what reviving techniques were  9 implemented as a result?  10 A. The palm strikes, and then placing the  11 subject in a seated position or on a side position,  12 recovery position so that they're able to breathe.  13 Q. Did that exist before this incident?  14 A. It did, yes.  15 Q. Were there any new --  16 A. Oh, no. Just the policy of the LVNR have  17 now been moved into our use of force model.  18 Q. Do you have any other suggestions on  19 training that's not currently in place?  20 A. No.  21 Q. Are you familiar with the concept of  22 education enforcement to prevent wrongdoing?  23 A. I'm not familiar with that, no.  24 Q. How many times was Tashi tasered?  25 A. Officer Lopera's countdown revealed seven</p>
<p>1 Did you make any assessment as to whether  2 Metro's LVNR policy is constitutional?  3 A. Did I make the assessment, no.  4 Q. Have you heard if an assessment has been  5 made?  6 A. As a result of this case, I believe they  7 went back and reviewed some of the tactics and  8 policies on it, but I don't know.  9 Q. Were you aware of other cases before this  10 case where people were injured after having LVNR  11 applied to them?  12 A. Yes, but I don't remember specifically  13 which cases.  14 Q. Lopera didn't have a warrant to arrest  15 Farmer, correct?  16 A. No.  17 Q. A training could be implemented to prevent  18 this from happening again?  19 MR. ANDERSON: Objection. Form.  20 MR. McNUTT: Form.  21 THE WITNESS: Could a training be  22 implemented?  23 BY MR. LAGOMARSINO:  24 Q. Yeah.  25 A. Yeah. There was some training that was put</p>	<p>1 times the trigger was pulled.  2 Q. And how many times was he struck in the  3 head?  4 A. Struck in the head?  5 Q. Yes.  6 A. Talking about hand strikes?  7 Q. Yes.  8 A. I believe it was approximately 12 to 15  9 times.  10 Q. And after that, Lopera put him in an LVNR,  11 correct?  12 A. Yes.  13 Q. Or some kind of neck restraint, correct?  14 A. Correct.  15 Q. How long was he in that hold?  16 A. I believe it was a minute and 14 seconds.  17 Q. After he was released from the LVNR, did  18 you witness officers walking around and not showing  19 any concern about Tashi?  20 MR. ANDERSON: Objection. Form.  21 THE WITNESS: No. There was officers who  22 were on the scene trying to set up ingress and egress  23 for medical. I had officers start with CPR  24 immediately. They went to the scene of security and  25 they asked for a defibrillator knowing that there's</p>

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<p>1 one on property. And they started to get the scene      2 shut down.</p> <p>3 BY MR. LAGOMARSINO:</p> <p>4 Q. How do you define "immediately"?</p> <p>5 A. As soon as officers got up on scene, Tran,      6 Officer Tran, once he was taken into custody,      7 immediately sets up Farmer, does reviving palm      8 strikes, checks his pulse several times. They take      9 him out of handcuffs to help with breathing. And      10 that's when I believe CPR was started, when Officer      11 Kravetz, Amburgey and Vontagen...</p> <p>12 Q. When you say immediately, are you saying      13 like within five seconds?</p> <p>14 A. For Officer Tran, when he set up Farmer, it      15 was almost immediate. They saw that he was at that      16 time -- I believe his statement says that his eyes      17 were closed and they sat him up in a seated position      18 and delivered palm strikes.</p> <p>19 Q. Did you witness police officers on the      20 scene in the body cam footage making jokes?</p> <p>21 A. No jokes.</p> <p>22 Q. Did you witness officers in the body cam      23 footage laughing?</p> <p>24 A. No, not laughing.</p> <p>25 Q. Would laughing and joking around the scene</p>	<p>1 the fact. Off record conversations with the -- with      2 the witness officers.</p> <p>3 Q. Do you recall specifically what they said?</p> <p>4 A. They asked about how he -- how Tashi had      5 died. They asked about the process of CIRT, and we      6 told them that we're going -- obviously we're going      7 to break down everything critically and look at this.</p> <p>8 They wanted to know -- I think one actually      9 asked if he had kids. I don't remember which one. I      10 think it was Tran, I believe, that actually asked      11 that. But it was not recorded in their statements.      12 This is all offline conversations.</p> <p>13 Q. Okay. Has, to your knowledge, any single      14 person from Metro offered as much as an apology to      15 anybody from Tashi's family?</p> <p>16 A. I don't know. I believe FIT had a very      17 close -- was in contact with, I believe, his wife or      18 his mother, I want to say, after the incident. And I      19 know they did some interviews with the family,      20 reference their part of the investigation. And      21 that's normally where they get their kind of idea of      22 who Tashi Farmer is.</p> <p>23 Q. But you don't know if they offered an      24 apology?</p> <p>25 A. I don't know.</p>
<p style="text-align: center;">Page 163</p> <p>1 of an incident like this be proper police routine?</p> <p>2 MR. ANDERSON: Objection. Form.</p> <p>3 THE WITNESS: No.</p> <p>4 BY MR. LAGOMARSINO:</p> <p>5 Q. Did Crumrine, Tran or Flores in their      6 statements express remorse?</p> <p>7 MR. ANDERSON: Objection. Form.</p> <p>8 THE WITNESS: I don't recall.</p> <p>9 BY MR. LAGOMARSINO:</p> <p>10 Q. Did Lopera express remorse?</p> <p>11 MR. McNUTT: Objection. Instruct the      12 witness not to answer if it came from the CIRT      13 process.</p> <p>14 BY MR. LAGOMARSINO:</p> <p>15 Q. Have you seen anything from any officer in      16 this case expressing even a twinge of guilt about      17 what happened?</p> <p>18 MR. ANDERSON: Objection. Form.</p> <p>19 THE WITNESS: Yes.</p> <p>20 BY MR. LAGOMARSINO:</p> <p>21 Q. Who?</p> <p>22 A. All the officers involved.</p> <p>23 Q. And are you saying that's in their      24 statements?</p> <p>25 A. No. Just the questions that they had after</p>	<p>1 Q. To your knowledge, was Tran, Crumrine or      2 Flores disciplined?</p> <p>3 A. I don't know. I'm not privy to the      4 discipline process.</p> <p>5 I take that back. I know Crumrine was      6 because I'm going through a separate...</p> <p>7 Q. How do you know Crumrine was?</p> <p>8 A. Because I have been called as a witness in      9 a separate civil investigation.</p> <p>10 Q. Have you ever heard of any Metro officer      11 in any situation ever being punished for lying in      12 court?</p> <p>13 A. For lying in court?</p> <p>14 Q. Yes.</p> <p>15 A. Yes.</p> <p>16 Q. Who was that?</p> <p>17 A. I can't -- I can't remember the officer. I      18 believe it was Officer George Smith, I want to say.</p> <p>19 Q. Okay. And what was that situation?</p> <p>20 A. I don't know -- I don't know the ins and      21 outs or the details of the case, just that he had      22 lied on the stand and he was placed on some -- I      23 believe it's called a Brady list.</p> <p>24 Q. Was he fired?</p> <p>25 A. No.</p>

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<p>1           Q. Have you ever heard of the word      2         "test-a-lying"?      3           A. No.      4           Q. In your opinion, based on all the evidence      5         you've reviewed, whose life did Tashi Farmer threaten      6         in this entire situation?      7           A. I don't know.      8           Q. In your view, is there any injustice in the      9         killing of Tashi Farmer?      10          MR. ANDERSON: Objection. Form.      11          THE WITNESS: Is there any justice?      12          BY MR. LAGOMARSINO:      13           Q. Injustice.      14           A. We have the conclusion of excessive use of      15         force.      16           Q. Personally, was Lopera's conduct shocking      17         to you personally?      18           MR. ANDERSON: Objection. Form.      19          MR. McNUTT: Join.      20          MR. ANDERSON: Go ahead.      21          THE WITNESS: In the form of shock of      22         conscience?      23          BY MR. LAGOMARSINO:      24           Q. Yeah.      25           A. No, but it was egregious.</p>	<p>1           that he died of asphyxia and two have said that he      2         died of a heart attack.      3          BY MR. LAGOMARSINO:      4           Q. How is a heart attack caused, in your view?      5           A. I have no idea. I'm sorry. One said      6         asphyxia, three said heart attack, I believe.      7           Q. And that was the coroner, in your view?      8           A. The -- our Clark County coroner ruled Tashi      9         had died of police asphyxia and then three separate      10         coroners did investigations.      11           Q. And who were those coroners?      12           A. I don't know.      13           Q. Are you talking about Force Science?      14           A. No.      15           Q. Okay. Where did you learn that?      16           A. Through the FIT investigation and then kind      17         of through this process as well.      18           Q. Were they Nevada coroners?      19           A. I don't know. Or the Clark County was the      20         Nevada one, but the other three I don't know.      21           Q. Did Crumrine, Tran or Flores ever provide      22         to you any kind of moral justification for their      23         conduct?      24          MR. ANDERSON: Objection. Form.      25          THE WITNESS: I believe Sergeant</p>
<p>1           Q. So you're not shocked?      2           A. I mean, I deal with officer-involved      3         shootings.      4           Q. Is that because you're desensitized?      5           A. Probably.      6           Q. What happens with respect to discipline at      7         Metro when the police restrain an unarmed man so      8         another officer can choke him to death?      9          MR. ANDERSON: Objection. Form.      10         THE WITNESS: What's --      11         BY MR. LAGOMARSINO:      12           Q. Well, let's rephrase.      13           Tashi was unarmed.      14           A. Uh-huh.      15           Q. And he was restrained by Lopera -- or      16         strike that.      17           Tashi was restrained by Crumrine, Tran and      18         Flores, correct?      19          MR. ANDERSON: Objection. Form.      20          THE WITNESS: Yes.      21         BY MR. LAGOMARSINO:      22           Q. And he was choked to death, right?      23          MR. ANDERSON: Objection. Form.      24          THE WITNESS: Actually, as far as I know,      25         there's been four coroners ruling and two have said</p>	<p>1           Crumrine -- actually he might --      2           In their after-action questions that we      3         asked, Sergeant Crumrine, I believe, had made a      4         statement that he essentially kept saying, "I messed      5         up, I messed up."      6          BY MR. LAGOMARSINO:      7           Q. But did he justify his conduct morally?      8           A. I don't recall.      9           Q. Have you ever heard at Metro -- I'm just      10         talking in general and talking about some culture      11         here now -- any officers in your entire history with      12         Metro say, well, if he wasn't guilty of doing this      13         crime, he was guilty of doing something else?      14           A. No.      15           Q. Have you ever heard Metro officers refer to      16         it being a war out there?      17           A. Yes. And that was during the 1 October      18         when we had to do our investigation into that.      19           Q. Any other incidences?      20           A. No. If you're talking in general working      21         day to day, no.      22           Q. In your experience with the Justice      23         Department and cops, is it fair to say that Metro has      24         a history of killing unarmed citizens?      25          MR. ANDERSON: Objection. Form.</p>

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**\* \* \* Videotaped Deposition \* \* \***

44 (Pages 170 to 173)

Page 170	Page 172
<p>1           THE WITNESS: Actually, from the years 2011      2         through 2014, we had no mistake of fact shootings,      3         every subject was armed.      4        BY MR. LAGOMARSINO:      5           Q. I'm not talking about just shootings.      6        Killings?      7           A. I don't know.      8           Q. Has a Metro officer ever killed anybody in      9        jail since 2010?      10          A. Yes.      11          Q. How many do you know about?      12          A. I know about three or four of them.      13          Q. And were any of those choke cases?      14          A. I believe two of them were, yes.      15          Q. And who did those involve?      16          A. I don't know.      17          Q. And just for foundational purposes, Metro      18        officers are employed in jails, correct?      19          A. Yes.      20          Q. At the CCSD?      21          A. Metro employees encompasses corrections      22        officers and patrol officers.      23          Q. Are Metro officers trained that everybody      24        could be a potential threat?      25          A. Part of our fair and impartial policing</p>	<p>1        BY MR. LAGOMARSINO:      2           Q. In your training, does Metro ever use      3        psychodrama or role-playing?      4           A. We do scenario-based training, if that's      5        the same.      6           Q. Is that role reversal training, or do you      7        know?      8           A. I don't think it's role reversal, no.      9           Q. Did you conclude in your evaluation that      10       Lopera was prone to aggression?      11          A. No.      12          MR. LAGOMARSINO: I don't have any other      13        questions.      14          MR. ANDERSON: Do you want me to go?      15          MR. McNUTT: Doesn't matter.      16          MR. ANDERSON: I'll be quick.</p>
	<p>18           EXAMINATION      19        BY MR. ANDERSON:      20          Q. Hi, Detective Kirkegard. Does CIRT      21        investigate whether Las Vegas Metropolitan Police      22        Department policy and training was breached?      23          A. Yes.      24          Q. It does not make any opinions on whether --      25        any legal conclusions; is that fair?</p>
<p>1        course that we put together, officers are taught to      2        approach every incident with an open mind.      3           Q. And in that open mind, could every person      4        be a potential threat?      5           A. Potential.      6           Q. And that would include potentially a little      7        old lady knitting a scarf on a bench, she could      8        potentially have a gun underneath that scarf?      9           A. She could very well.      10          Q. Is it important in general when policing to      11        have a people-friendly culture?      12          A. Yes.      13          Q. What aggression did Tashi Farmer display,      14        if any?      15          A. Resistance being taken into custody.      16          Q. What actions could Lopera have taken to      17        de-escalate the situation?      18          MR. ANDERSON: Objection. Form.      19          THE WITNESS: He could have got on the      20        radio, got more resources to his location. He could      21        have attempted verbally to de-escalate the situation.      22        Could have recognized the fact -- I mean, again,      23        based on what he had told us, he could have      24        recognized some Fourth Amendment.</p>	<p>1        A. Yes.      2           Q. So any conclusions or findings you may have      3        are based solely upon the police department's policy      4        and training?      5           A. Correct.      6           Q. Now, you testified earlier and established      7        that an LVNR is the only neck restraint taught by the      8        police department, correct?      9           A. Yes.      10          Q. So if a neck restraint is used that is not      11        the LVNR, that would be outside of policy?      12          A. Yes.      13          Q. And an officer could be disciplined for      14        that action?      15          A. Yes.      16          Q. Is it possible that if someone used a neck      17        restraint that was not an LVNR, it could still be      18        reasonable under the circumstances?      19          A. Yes. By policy.      20          Q. So it could be reasonable under the law but      21        violating policy?      22          A. Right.      23          Q. Is that what you were kind of explaining      24        with Biesanszky, that he acted reasonably but that it      25        was outside the policy?</p>

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 \* \* \* Videotaped Deposition \* \* \*

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<p>1           A. Correct.</p> <p>2           Q. Now, you were given a hypothetical in the</p> <p>3           morning session of this deposition about the duty to</p> <p>4           intervene.</p> <p>5           When the officers arrived, did Sergeant</p> <p>6           Crumrine give an order to Lopera to let him go?</p> <p>7           A. Yes.</p> <p>8           Q. In your training and experience, was</p> <p>9           Officer Crumrine -- would it be reasonable for</p> <p>10          Officer Crumrine to believe that Lopera had followed</p> <p>11          that command, his order?</p> <p>12          A. I don't know.</p> <p>13          Q. Okay. Is there any way that Crumrine could</p> <p>14          tell, based upon your training and experience,</p> <p>15          whether Lopera released pressure while keeping the</p> <p>16          encircling arm around the neck?</p> <p>17          A. I don't know.</p> <p>18          Q. Have you ever been witness to an LVNR?</p> <p>19          A. Yes.</p> <p>20          Q. Can you tell how much pressure is being</p> <p>21          applied?</p> <p>22          A. No.</p> <p>23          Q. If an officer ceases using an LVNR, is it</p> <p>24          policy that they maintain the encircling arm until</p> <p>25          handcuffing is effectuated?</p>	<p>1           A. Yes.</p> <p>2           Q. Are verbal commands a form of intervention?</p> <p>3           A. Yes.</p> <p>4           Q. And are officers entitled to believe that</p> <p>5           other officers will follow their commands?</p> <p>6           A. I'm sorry, are they entitled?</p> <p>7           Q. Is it reasonable for an officer to assume</p> <p>8           that their command is being followed?</p> <p>9           A. Yes.</p> <p>10          Q. Now, you -- there was a question posed to</p> <p>11          you that the three -- this is just barely -- that the</p> <p>12          three officers were restraining Farmer while Lopera</p> <p>13          choked him out.</p> <p>14          Do you remember that question?</p> <p>15          A. Yes.</p> <p>16          Q. For purposes of police work, when is</p> <p>17          someone restrained?</p> <p>18          A. When they're placed in handcuffs.</p> <p>19          Q. Okay. So would it be more accurate to say</p> <p>20          that Tran, Crumrine and Flores were attempting to</p> <p>21          restrain Farmer while the neck restraint was being</p> <p>22          applied?</p> <p>23          A. Yes.</p> <p>24          Q. And again, you would not physically</p> <p>25          intervene in a neck restraint until handcuffing was</p>
<p style="text-align: center;">Page 175</p> <p>1           A. It's a control technique that's used.</p> <p>2           Q. And it's your understanding or based upon</p> <p>3           your investigation of this incident, that while</p> <p>4           Officer Lopera had Mr. Farmer in some form of neck</p> <p>5           restraint or his arms around the neck, that the other</p> <p>6           three officers, Crumrine, Tran and Flores were</p> <p>7           attempting to handcuff Farmer; is that correct?</p> <p>8           A. Yes.</p> <p>9           Q. And you've been asked questions about</p> <p>10          whether the officers could have or should have</p> <p>11          physically pried Lopera's arms off Farmer's neck,</p> <p>12          correct?</p> <p>13          A. Yes.</p> <p>14          Q. Can you think of any scenario where an</p> <p>15          officer would stop handcuffing an individual before</p> <p>16          they're handcuffed to physically pull the arms off</p> <p>17          someone's neck?</p> <p>18          A. No. It's not what's trained.</p> <p>19          Q. They're trained that they would not</p> <p>20          physically intervene until the handcuffing is</p> <p>21          complete?</p> <p>22          A. Correct.</p> <p>23          Q. But despite that understanding, the</p> <p>24          officers were giving Lopera verbal commands about his</p> <p>25          use of the neck restraint?</p>	<p>1           complete; is that fair?</p> <p>2           A. Correct.</p> <p>3           Q. Now, Crumrine, Tran and Flores were</p> <p>4           investigated for failing to intervene?</p> <p>5           A. Yes, they were.</p> <p>6           Q. Okay. And they were -- it was found that</p> <p>7           they did, in fact, intervene?</p> <p>8           A. Yes.</p> <p>9           Q. And is that verbally and physically?</p> <p>10          A. Yes.</p> <p>11          Q. Attempting to handcuff a suspect, is that a</p> <p>12          form of intervention of forces being used?</p> <p>13          A. Yes.</p> <p>14          Q. Okay. Because the first thing you would</p> <p>15          want to do is get the suspect handcuffed upon</p> <p>16          arrival?</p> <p>17          A. Yes.</p> <p>18          Q. And that's basic police training?</p> <p>19          A. Yes.</p> <p>20          Q. Now, you were read into the -- into the</p> <p>21          record the CIRT statement introductions of Crumrine,</p> <p>22          Flores, Tran -- and Crumrine. Crumrine, Flores,</p> <p>23          Tran, their CIRT statement introductions were read,</p> <p>24          correct?</p> <p>25          A. Yes.</p>

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**\* \* \* Videotaped Deposition \* \* \***

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<p>1       Q. And you were selectively read the portions      2       that you failed to activate your body-worn camera and      3       you failed to intervene while the application of the      4       LVNR was applied on the subject, correct?      5       A. Yes.      6       Q. Will you read the sentence preceding that.      7       A. "It's alleged that you have violated the      8       following within LVMPD policies."      9       Q. Okay. So is -- what the -- the statement      10      that was read in by plaintiff's counsel was just      11      referring to the charges against them?      12      A. Correct.      13      Q. It was not a finding?      14      A. No, it was not a finding. Usually the      15      questions that we're going to ask them during their      16      interview.      17      Q. So that was to put them on notice as to      18      what they were being investigated for?      19      A. Correct. And that's per NRS 289.      20      Q. Now, all of Sergeant Crumrine's findings      21      that he fell below policy in training, they were      22      about his actions after Farmer was taken into      23      custody?      24      A. Correct.      25      Q. Okay. So they were found that he didn't</p>	<p>1       A. I am.      2       Q. I've never -- I don't think I've ever asked      3       that in a deposition, no one ever has a problem, but      4       I'm a little -- I'm a little hoarse today. I      5       apologize.      6       A. No worries.      7       Q. Is being under the influence of a      8       controlled substance a crime in the state of Nevada?      9       A. Yes, it is.      10      Q. Is resisting arrest a crime in the state of      11      Nevada?      12      A. Yes, it is.      13      Q. Is trespassing a crime in the state of      14      Nevada?      15      A. Yes.      16      Q. Is striking an officer a crime in the state      17      of Nevada?      18      A. Yes.      19      Q. Is carjacking a crime in the state of      20      Nevada?      21      A. Yes.      22      Q. Are you aware as to whether or not Tashi      23      Farmer was under the influence of a controlled      24      substance?      25      A. Not until after the coroner autopsy</p>
<p style="text-align: center;">Page 179</p> <p>1       properly set up an incident command system?      2       A. Yes.      3       Q. And he didn't adequately manage the system?      4       A. Correct.      5       Q. But all that was post use of force?      6       A. Yes.      7       Q. Now, if -- if he had properly performed      8       those functions, would Mr. Farmer's outcome have been      9       different?      10      A. No.      11      Q. If the officers had turned on their      12      body-worn cameras, would the outcome have been      13      different?      14      A. No.      15      Q. Are you aware of any constitutional right      16      to have a body-worn camera?      17      A. No. Not constitutional.      18      Q. That is all I have. Thank you very much.</p> <p style="text-align: center;">EXAMINATION</p> <p>BY MR. McNUTT:</p> <p>Q. Detective Kirkegaard, my name is Dan McNutt. How are you?</p> <p>A. Good. How are you?</p> <p>Q. Are you hearing me okay?</p>	<p style="text-align: center;">Page 181</p> <p>1       toxicology came back.      2       Q. Correct. As you sit here today, are you      3       aware that Tashi Farmer was under the influence of a      4       controlled substance?      5       A. Yes, I do.      6       Q. Is it your opinion or do you have an      7       opinion as to whether or not being under the      8       influence of a controlled substance, being high on      9       drugs can be confused by someone interacting with      10      that individual with being mentally ill?      11      A. Yes.      12      Q. I'm sorry?      13      A. Yes.      14      Q. So if Officer Lopera perceived that Tashi      15      Farmer was under the influence of a controlled      16      substance, and Officer Lif perceived that Tashi      17      Farmer was mentally ill, those are just two different      18      perceptions, correct?      19      A. Yes.      20      Q. But in this case, Officer Lopera was      21      correct, wasn't he?      22      A. Yes.      23      MR. LAGOMARSINO: Objection. If you're      24      going to be asking about what he said to her, then I      25      think you're opening --</p>

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 \* \* \* Videotaped Deposition \* \* \*

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<p style="text-align: center;">Page 182</p> <p>1           MR. McNUTT: I'm not asking her what he      2        said.      3           MR. LAGOMARSINO: Okay.      4           MR. McNUTT: I'm asking her what the      5        factual --      6           MR. LAGOMARSINO: So you're asking      7        hypothetically if Officer Lopera thought this, is      8        what you're saying? I think the last question is if      9        Officer Lopera thought that or said this.      10          MR. McNUTT: That's not what I said. If      11        you would like me to ask that question, I will. But      12        that's not what I asked.      13          MR. LAGOMARSINO: No. So if you want to      14        open the door, sure, go ahead and ask the question,      15        but I believe you asked that question. Go ahead.      16          MR. McNUTT: Do you have any real      17        objections?      18          MR. LAGOMARSINO: Yeah. I just lodged      19        them.      20          MR. McNUTT: Okay. Then keep them to form.      21          MR. LAGOMARSINO: Like you have been the      22        whole deposition?      23          MR. McNUTT: I haven't made any objections      24        other than instructing the witness not to answer for      25        something that's under court order.</p>	<p style="text-align: center;">Page 184</p> <p>1        employed by Officer Lopera be more informed on the      2        lateral vascular neck restraint than Sergeant      3        Michael Bland?      4           A. Would my opinion be --      5           Q. Yes.      6           A. No. Michael Bland would be the expert in      7        this.      8           Q. Because he is the subject matter expert?      9           A. Yes.      10          Q. So you would defer to his testimony      11        regarding the technique employed by Officer Lopera?      12           A. Yes.      13          Q. Where did you get your information that      14        you've testified here today regarding how many cycles      15        of the ECD occurred?      16          A. We have a -- an ECD download, which is      17        batteries plugged into a computer, that does the      18        download for us, and it will show how many times the      19        trigger was pulled to include the duration of each      20        cycle.      21          Q. And does that report -- and did you      22        actually review the report?      23           A. Yes, I did.      24           Q. So you -- you're qualified to review the      25        raw data of that report and interpret it?</p>
<p style="text-align: center;">Page 183</p> <p>1        BY MR. McNUTT:      2           Q. Since being under the influence of a      3        controlled substance, resisting arrest, trespass,      4        striking an officer and carjacking are all crimes in      5        the state of Nevada, isn't it true that Tashi Farmer      6        could, in fact, have been charged with a crime after      7        this event?      8           A. Yes.      9           Q. Is it per Metro policy when you deploy the      10       LVNR to keep the encircling arm in place until      11       handcuffing is complete?      12           A. The control technique?      13           Q. Yes.      14           A. Yes.      15           Q. Even if there's no pressure being applied,      16        it's proper to have the encircling arm, which is      17        around the neck, in place, correct?      18           A. Yes.      19           Q. And isn't it true that as part of your      20       investigation, there was no determination as to      21       whether or not the technique employed by Officer      22       Lopera was a lateral vascular neck restraint or      23       anything else, correct?      24           A. Correct.      25           Q. Would your opinion regarding the technique</p>	<p style="text-align: center;">Page 185</p> <p>1        A. Not -- well, qualified. I can look at it,      2        yes. But we refer to our ECD as -- Carlson and Nick,      3        Nicholas Rinella, for their expert opinion on how to      4        read it.      5           Q. What was his name?      6           A. Rinella, R-i-n-e-l-l-a.      7           Q. Okay. Nicholas?      8           A. Yes. It's -- yeah.      9           Q. When the ECD is triggered, as you say, does      10       that automatically mean that there was a transfer of      11       electrical charge into the suspect?      12           A. Not into the suspect, no.      13           Q. So just because the trigger of an ECD was      14        deployed, doesn't mean that the suspect or the      15        subject receives any physical shock?      16          MR. LAGOMARSINO: Objection. Form.      17        Incomplete hypothetical.      18          THE WITNESS: Correct.      19        BY MR. McNUTT:      20           Q. Let alone achieve neuromuscular      21        incapacitation?      22          MR. LAGOMARSINO: Same objection.      23          THE WITNESS: Correct.      24        BY MR. McNUTT:      25           Q. When you testified regarding the hand</p>

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**\* \* \* Videotaped Deposition \* \* \***

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<p>1 strikes, the amount of hand strikes that you were      2 discussing with Mr. Lagomarsino, how did you come to      3 the conclusion about how many hand strikes?</p> <p>4 A. It was review off both the surveillance      5 video of Venetian and then Officer Lopera's body      6 camera, and that was intermittent body camera.</p> <p>7 Q. And that was you personally and you counted      8 them?</p> <p>9 A. Correct. It was me, and then we had --      10 that video was shown to our discussion of SMEs when      11 we had roundtabled the incident.</p> <p>12 Q. So assuming for a minute that the -- the      13 count of the hand strikes were accurate, do you know      14 whether -- with how much force any of them landed on      15 Mr. Farmer?</p> <p>16 A. No.</p> <p>17 Q. Do you know if they landed at all on      18 Mr. Farmer?</p> <p>19 A. Looking through the video, it appeared he      20 made contact. But whether, like you're saying, the      21 pressure where the actual target was, I don't know.</p> <p>22 Q. Did Mr. Farmer cease resisting when the      23 hand strikes were thrown?</p> <p>24 A. In some portions of Officer Lopera's      25 body-worn camera, it appears as though Farmer's hands</p>	<p>1 remember we talked about the strikes.      2 Q. You were asked a question, what could have      3 been done to deescalate this situation. Do you      4 recall that?</p> <p>5 A. Yes, I do.</p> <p>6 Q. What could Tashi Farmer have done to      7 deescalate the situation?</p> <p>8 A. Well, looking at it, cameras and      9 everything, he could have listened to Officer Lopera.</p> <p>10 Q. So he could have followed the verbal      11 commands of a Metropolitan police officer?</p> <p>12 A. Yes.</p> <p>13 Q. If he would have followed the verbal      14 commands of Officer Lopera, what would have happened?</p> <p>15 A. I don't know.</p> <p>16 Q. If Officer Lopera said stop, don't move,      17 what would have happened?</p> <p>18 A. I don't know.</p> <p>19 Q. Would there have been the chance for      20 further inquiry with Tashi Farmer?</p> <p>21 A. I don't know. Probably not.</p> <p>22 Q. With respect to the communications and some      23 of the policy violations that were discussed and you      24 were talking about covering contact, in this scenario      25 with respect to Officer Lopera and Officer Lif, who</p>
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<p>1 are up in a defensive deflecting.</p> <p>2 Q. Have you reviewed the deposition testimony      3 or did you interview as part of your investigation      4 the security guard from the Venetian's testimony or      5 did you interview them directly?</p> <p>6 A. Yes. Both I reviewed their statements that      7 they provided to FIT, and then we actually went back      8 out a few weeks later and conducted our own      9 investigation -- or interview.</p> <p>10 Q. Do you recall a gentleman named -- Security      11 Guard Infantino?</p> <p>12 A. Yes.</p> <p>13 Q. And do you recall his testimony being that      14 Tashi Farmer was demonstrating extraordinary strength      15 in resisting Officer Lopera?</p> <p>16 A. Yes.</p> <p>17 Q. And in fact, that he tried to grab Officer      18 Lopera -- excuse me. The fact that Infantino tried      19 to grab Tashi Farmer's arm, and he felt personally      20 the significant strength Tashi Farmer exhibited?</p> <p>21 A. Yes.</p> <p>22 Q. Do you also remember the part of his      23 testimony where he talked about the fact that the      24 punches were having no effect on Tashi Farmer?</p> <p>25 A. I don't recall that specifically, but I</p>	<p>1 was covering whose contact in the interaction with      2 Tashi Farmer?</p> <p>3 A. In Officer Lif's statement, it would have      4 been Officer Lopera who was the contact, and she      5 would have been the cover officer. And then Officer      6 Lopera had also told us something similar in his      7 statement.</p> <p>8 Q. And I'm not asking you about Officer      9 Lif.</p> <p>10 So with respect to making the verbal      11 communications over the radio -- because you were      12 testifying regarding Metro's policies regarding foot      13 pursuits and making communications over the radio, do      14 you remember that?</p> <p>15 A. Yes.</p> <p>16 Q. Whose obligation would that have been?      17 Would that have been Officer Lopera or Officer Lif's      18 as the contact?</p> <p>19 A. First on -- the first initial when Officer      20 Lopera approached the decedent, Officer Lif could      21 have gotten on the radio and stated their location,      22 the stop, for a person stop.</p> <p>23 However, when Officer Lopera engaged in a      24 foot pursuit, it's incumbent upon that officer to      25 provide that radio traffic and his actions to include</p>

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<p>1       that he is in a foot pursuit.</p> <p>2       Q. And again, I'm never going to ask you about</p> <p>3       Officer Lopera's statements in this.</p> <p>4       A. Okay.</p> <p>5       Q. So don't take it that way.</p> <p>6       But do you know whether or not Officer</p> <p>7       Lopera did -- attempted to make those communications</p> <p>8       or not?</p> <p>9       A. He did not.</p> <p>10      Q. Because part of the pursuit was through the</p> <p>11     back of the house of the casino and then through a</p> <p>12     concrete stairwell and things of that nature, right?</p> <p>13      A. Yes.</p> <p>14      Q. I think we've all probably been in a</p> <p>15     parking garage or one of those areas and we don't</p> <p>16     have much cell phone service. So is there a way that</p> <p>17     you can tell by radio transmissions or can you tell</p> <p>18     that his mic was keyed or not keyed?</p> <p>19      A. Right. So we did. We did a radio analysis</p> <p>20     on both him and Officer Lif. And we even utilized</p> <p>21     our radios that are assigned to us and went through</p> <p>22     and checked to see if you were able to communicate.</p> <p>23      We did a test run with our dispatcher and</p> <p>24     then, like I said, we did an analysis on Lif and</p> <p>25     Lopera's radio.</p>	<p>1       A. Yes, it is.</p> <p>2       Q. Would you defer to the officer on the scene</p> <p>3       in that regard?</p> <p>4       A. For their perception, yes.</p> <p>5       Q. And what they believe is reasonable,</p> <p>6       and isn't it true -- I'm sorry, go ahead and answer</p> <p>7       that.</p> <p>8       A. Yes.</p> <p>9       Q. And isn't it true that each officer, some</p> <p>10      have more skills in one technique than other</p> <p>11      techniques and it's a little bit dependent upon what</p> <p>12      they're best suited to deploy?</p> <p>13      A. Yes.</p> <p>14      Q. What is the policy regarding when you can</p> <p>15      turn off a body-worn camera after an event?</p> <p>16      A. I believe it's at the debrief once the</p> <p>17      scene is considered static. And when, again, when</p> <p>18      they're starting to debrief within, and that's to</p> <p>19      protect any policies and procedures, things of that</p> <p>20      nature.</p> <p>21      Q. Can you identify any point in this event</p> <p>22      when you know this situation was deemed static and it</p> <p>23      would have been okay for the officers to turn off</p> <p>24      their body-worn camera?</p> <p>25      A. Probably at the point where they have the</p>
<p style="text-align: center;">Page 191</p> <p>1       Q. Okay. And you did have signal, is what</p> <p>2       you're saying?</p> <p>3       A. Yes.</p> <p>4       Q. In the stairwell and everything else?</p> <p>5       A. Yes.</p> <p>6       Q. You made a statement that Officer Lopera</p> <p>7       could have used empty hand tactics to take Tashi</p> <p>8       Farmer into custody; do you remember that?</p> <p>9       A. Yes, I do.</p> <p>10      Q. Isn't that what he did?</p> <p>11      A. Well, hand strikes are not considered empty</p> <p>12      hand tactics.</p> <p>13      Q. What are considered empty hand tactics?</p> <p>14      A. Those are going to be certain takedowns</p> <p>15      that we use; reverse wrist lock, arm bar takedowns,</p> <p>16      things that have -- that will less likely result in</p> <p>17      injury.</p> <p>18      Q. Do you think given the circumstances once</p> <p>19      the ECD was ineffective, and once Tashi Farmer was</p> <p>20      resisting in personal contact with Officer Lopera,</p> <p>21      that those techniques would have been effective?</p> <p>22      A. Given the body position of the two,</p> <p>23      probably not, but...</p> <p>24      Q. Is that a judgment call the officer has to</p> <p>25      make on the scene?</p>	<p style="text-align: center;">Page 193</p> <p>1       scene secure, medical has arrived and now it's just</p> <p>2       waiting on what's next.</p> <p>3       Q. Do they -- do officers have to receive an</p> <p>4       approval or an order from their superior, their</p> <p>5       sergeant or commanding officer to turn off their</p> <p>6       body-worn camera?</p> <p>7       A. No.</p> <p>8       Q. So they can do it on their own?</p> <p>9       A. Correct.</p> <p>10      Q. It's true that Officer Lopera properly</p> <p>11      turned on his body-worn cam, right?</p> <p>12      A. Yes.</p> <p>13      Q. And he never turned off his body-worn cam</p> <p>14      until after it was static, correct?</p> <p>15      A. Correct.</p> <p>16      Q. So he was in complete compliance with the</p> <p>17      body-worn cam policy of Metro, right?</p> <p>18      A. I wouldn't say complete. There's a policy</p> <p>19      for officers that were involved in a critical</p> <p>20      incident that as soon as they're removed from the</p> <p>21      scene, they are to turn off their body camera. But</p> <p>22      in this particular incident, Sergeant Crumrine failed</p> <p>23      at removing Officer Lopera from the crime scene and</p> <p>24      having him deactivate his body cam.</p> <p>25      Q. So in effect, if there was any policy</p>

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<p>1 violation, he was over-inclusive in the evidence      2 preserved on his body-worn camera?</p> <p>3 A. Right.</p> <p>4 Q. There was some discussion about what you      5 termed -- or what the term was in -- strike that.      6 Are you familiar with Operation Safe Strip?</p> <p>7 A. Yes.</p> <p>8 Q. Or is it Project Safe Strip?</p> <p>9 A. It's -- I believe -- I just know it as      10 Safe Strip.</p> <p>11 Q. I've heard of it as -- different officers      12 have said different things.</p> <p>13 A. Right. I know Safe Strip.</p> <p>14 Q. What is it?</p> <p>15 A. It's -- well, actually, I don't know what      16 it is anymore. It used to be we have a proactive      17 squad that would go around to the hot spots around in      18 Convention Center Area Command, which is essentially      19 the Strip, Las Vegas Boulevard, and they would      20 address certain issues.</p> <p>21 Q. And are you aware that Officer Lopera was      22 assigned to Safe Strip the night of this incident?</p> <p>23 A. Yes.</p> <p>24 Q. And is the -- would someone approaching an      25 officer on Operation Safe Strip that was under the</p>	<p>1 force structure?</p> <p>2 A. Level I was, yes.</p> <p>3 Q. Correct. And there's never been a      4 determination by you or anyone else that Officer      5 Lopera used any specific level of LVNR, correct?</p> <p>6 A. Yeah, he did. Yes.</p> <p>7 Q. I'm correct?</p> <p>8 A. You're correct, yes. Without going into a      9 statement, yes.</p> <p>10 Q. Well, Sergeant Bland testified that no one      11 could tell by reviewing the video whether or not      12 there was LVNR 1, 2 or 3, whether there was any      13 pressure applied at any point or for how long. Are      14 you -- are you aware of that?</p> <p>15 A. Yes.</p> <p>16 Q. Do you agree with Sergeant Bland's      17 testimony in that regard?</p> <p>18 A. I do.</p> <p>19 Q. You testified that there was a lawyer that      20 stopped the walk-through and you referred to that      21 lawyer by name. Do you recall that individual?</p> <p>22 A. John Eldridge.</p> <p>23 Q. John Eldridge?</p> <p>24 A. I believe it was.</p> <p>25 Q. And who was he the lawyer for?</p>
<p style="text-align: center;">Page 195</p> <p>1 influence of a controlled substance, would that be      2 someone that the officer should investigate?</p> <p>3 MR. LAGOMARSINO: Objection. Form.      4 Foundation. Incomplete hypothetical.</p> <p>5 THE WITNESS: It depends. And this is --      6 Safe Strip officers probably deal with that on a      7 99 percent basis. But yes.</p> <p>8 BY MR. McNUTT:</p> <p>9 Q. What about when someone that they believe      10 is under the influence of a controlled substance runs      11 into a restricted area of a casino; is that something      12 that would require investigation?</p> <p>13 A. Yes.</p> <p>14 Q. Is that reasonable suspicion to stop      15 someone?</p> <p>16 A. Yes.</p> <p>17 Q. Is that probable cause to pursue someone?</p> <p>18 A. Reasonable suspicion.</p> <p>19 Q. Do you think Officer Lopera had reasonable      20 suspicion and was justified in following Tashi      21 Farmer?</p> <p>22 A. Yes.</p> <p>23 Q. Under the policies in effect at the time of      24 this event, isn't it true that Officer Lopera's use      25 of the LVNR was authorized under the former use of</p>	<p style="text-align: center;">Page 197</p> <p>1 A. So he's one of the -- he's either PPA or      2 PMSA reps, lawyers that come out along with David      3 Roger and Jay Roberts who would come out and -- out      4 on scene whenever a critical incident happens to      5 represent involved officers or witness officers.</p> <p>6 Q. Were you present when he was there?</p> <p>7 A. No, I was not.</p> <p>8 Q. Were you present at any point at this scene      9 or you -- CIRT comes in, like, sometime later?</p> <p>10 A. Right. I was at the office. My partner      11 actually went down to the scene, but I did not go      12 down.</p> <p>13 Q. And what was your understanding about the      14 lawyers stopping the walk-through?</p> <p>15 A. I believe they got through the first four      16 questions up until the -- I believe it was the foot      17 pursuit and the perceived carjacking. And then at      18 that point, when it went into the actual use of force      19 used by Lopera, all questions stopped.</p> <p>20 Q. And who stopped it?</p> <p>21 A. The -- I believe Eldridge.</p> <p>22 Q. So you're not aware of the fact that      23 Mr. Eldridge's statement is he never stopped the      24 walk-through?</p> <p>25 A. I -- I believe he physically said, "We're</p>

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<p>1       not answering any more questions," and at that time      2       all questions stopped.      3       Q. The LVNR can be a -- is a physical      4       restraint through which an officer is allowed to      5       control a suspect, correct?      6       A. Yes.      7       Q. And that can include rendering a subject      8       unconscious, correct?      9       A. Yes.      10      Q. And in fact, you've deployed an LVNR?      11      A. Yes.      12      Q. And in your instance, you did not have to      13       render the suspect unconscious, correct?      14      A. Correct.      15      Q. So it's just a different force continuum      16       depending on what happens, correct?      17      A. Correct.      18      Q. Have you ever been trained about how long      19       you can employ the LVNR?      20      A. On -- for training -- or I'm sorry, for      21       controlling techniques, as long as once you get that      22       subject into custody and there's no time frame,      23       there's nothing black and white that says you have a      24       minute, two minutes, three minutes. It's based on      25       the situation at hand.</p>	<p>1       A. Per se, yeah.      2       Q. And it could be 90 seconds, but the -- but      3       the second that the cuffs go on the person, then the      4       LVNR for sure has to be released, right?      5       A. Yes.      6       Q. You talked about the ECD being deployed one      7       time during the event where Officer Lopera perceived      8       that there was a carjacking?      9       A. Yes.      10      Q. Are you okay with that deployment of the      11       ECD?      12      A. Yes.      13      Q. Why?      14      A. Because of the perception of the attempt,      15       the alleged carjacking and the severity of the crime      16       at hand which would fall under aggressive, and our      17       use of force model which involves an officer to      18       deploy that ECD based on the perception of Officer      19       Lopera.      20      Q. And if the suspect after the initial ECD      21       deployment, if the suspect did not comply with the      22       verbal demands being given by the officer, would it      23       not be within LVMPD policy to deploy the Taser again?      24      A. You can deploy the Taser again, yes.      25      However, there's some considerations that need to be</p>
<p style="text-align: center;">Page 199</p> <p>1       Q. So for sure you need to release it after      2       they're in handcuffs? I mean that's kind of a      3       bright-line rule, correct?      4       A. Yes.      5       Q. And Metro training is that the LVNR could      6       render a suspect unconscious in four to seven, four      7       to twelve seconds, correct?      8       A. Yeah. I don't remember what lesson plan it      9       states but...      10      Q. Right. And Sergeant Bland testified that      11       of course that all depends on the proficiency with      12       which the LVNR is employed and how much the suspect      13       is struggling. Would you agree with that?      14      A. Yeah.      15      Q. So there is no bright-line rule about how      16       long an LVNR can be used; it's really when it has to      17       be released once the suspect is -- control has been      18       gained over the suspect?      19      A. Yes.      20      Q. Is that correct?      21      A. Yes. In custody. Handcuffs.      22      Q. So literally if you're down on the ground      23       rolling around and trying to put an LVNR on someone      24       for a minute, that is not, per se, incorrect.      25       Would you agree with that?</p>	<p>1       taken.      2       Q. What are those considerations?      3       A. You have to give the subject time to      4       comply. So with that, you can't just tase, wait two      5       seconds, tase again. There has to be a clear order      6       to give -- or a clear time to give the subject to      7       comply with those commands.      8       Q. And how long do you think the clear amount      9       of time is to comply?      10      A. It depends on the situation and the body      11       position of the subject.      12      Q. So we're talking about seconds, though,      13       we're not talking about minutes, correct?      14      A. Correct.      15      Q. Isn't it true that all of the evidence that      16       you reviewed indicated that -- and I base this on      17       your prior testimony, I believe it was page 111 of      18       your prior deposition, which I don't have for you,      19       but when I was preparing for it.      20      You testified that the evidence you      21       reviewed indicated that Officer Lopera, in fact,      22       loosened up any grip or any LVNR pressure when he was      23       told to, correct?      24      A. Yes.      25      Q. By the way, I'm going from memory so if</p>

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<p>1        it's not 111, I apologize.</p> <p>2        A. Good memory.</p> <p>3        Q. So that's correct?</p> <p>4        A. That is correct, yes.</p> <p>5        Q. So you have no evidence that Officer Lopera</p> <p>6        disobeyed anybody's orders to loosen up?</p> <p>7        A. No.</p> <p>8        Q. And when we were talking -- we talked about</p> <p>9        this earlier. But when you -- it's absolutely</p> <p>10      permissible to loosen the pressure but keep the</p> <p>11      encircling arm in place until the suspect has been</p> <p>12      handcuffed?</p> <p>13      A. As a controlling technique, yes.</p> <p>14      Q. Do you recall that that's what happened,</p> <p>15      meaning that Officer Lopera's encircling arm was</p> <p>16      removed when Tashi Farmer was handcuffed?</p> <p>17      A. Yes.</p> <p>18      Q. You do remember that?</p> <p>19      A. Yes.</p> <p>20      Q. Okay. And you -- we can see that if we</p> <p>21      look at the video?</p> <p>22      A. Correct.</p> <p>23      Q. So when -- to go back to something, when</p> <p>24      Officer Lif says he didn't pose a threat in my</p> <p>25      perception to himself or others, granted he did go</p>	<p>1        Officer -- that Tashi Farmer was under the influence</p> <p>2        of a controlled substance was, in fact, true?</p> <p>3        MR. LAGOMARSINO: Objection. Empirical.</p> <p>4        THE WITNESS: Yes.</p> <p>5        MR. McNUTT: All right. Craig, do you want</p> <p>6        to switch seats?</p> <p>7        (A discussion was held off the record.)</p> <p>8        BY MR. McNUTT:</p> <p>9        Q. So we've got a screen frame -- a screen</p> <p>10      grab here, the start of the video of what's been</p> <p>11      produced in this case as Officer Lopera's body-worn</p> <p>12      camera.</p> <p>13      Have you seen this -- we're about to start</p> <p>14      watching it as a video. Have you seen this before?</p> <p>15      A. Yes.</p> <p>16      MR. LAGOMARSINO: Counsel, do you have like</p> <p>17      a time stamp on there?</p> <p>18      MR. McNUTT: There will be a time stamp</p> <p>19      once we start playing it.</p> <p>20      MR. LAGOMARSINO: Okay.</p> <p>21      BY MR. McNUTT:</p> <p>22      Q. Do you recognize Tashi Farmer in this</p> <p>23      frame?</p> <p>24      A. Yes, I do.</p> <p>25      Q. And you recognize Officer Lopera's left</p>
<p style="text-align: center;">Page 203</p> <p>1        down the service hallway but that's not a threat. He</p> <p>2        wanted to get away. That's simply her perception,</p> <p>3        correct?</p> <p>4        A. Yes.</p> <p>5        Q. And that does not trump Officer Lopera's</p> <p>6        perception?</p> <p>7        A. Correct. Because she -- he had -- she</p> <p>8        turned around to go place coffee down. So whatever</p> <p>9        the conversation between Officer Lopera and Farmer,</p> <p>10      she does not know.</p> <p>11      Q. Okay.</p> <p>12      A. Or what his reasonable suspicion was at</p> <p>13      that time.</p> <p>14      Q. But even taking that out of it, one officer</p> <p>15      can see a suspect flee into a restricted area of a</p> <p>16      casino and believe that that's improper and wrong and</p> <p>17      pursue that person, correct?</p> <p>18      A. Yes.</p> <p>19      Q. Even if his partner is standing right there</p> <p>20      and says, "Well, I thought he was mentally ill and he</p> <p>21      wasn't posing a threat"?</p> <p>22      A. Yes.</p> <p>23      Q. And in this case, the empirical evidence</p> <p>24      indicates that Officer Lopera was correct and</p> <p>25      procedure was correct inasmuch as his suspicion that</p>	<p style="text-align: center;">Page 205</p> <p>1        hand holding his coffee?</p> <p>2        A. Yes.</p> <p>3        Q. Okay. So I have a few questions here and</p> <p>4        I'll stop and start the video as we go.</p> <p>5        MR. McNUTT: Andre, see at the bottom here?</p> <p>6        MR. LAGOMARSINO: Just identify for the</p> <p>7        record. It's very small.</p> <p>8        MR. McNUTT: The video starts at zero.</p> <p>9        MR. LAGOMARSINO: When you start asking</p> <p>10      questions, can you just identify it for the record?</p> <p>11      MR. McNUTT: Yes, sir.</p> <p>12      MR. LAGOMARSINO: Thank you.</p> <p>13      BY MR. McNUTT:</p> <p>14      Q. So by the way, when does the audio start on</p> <p>15      the body-worn camera?</p> <p>16      A. 30 seconds.</p> <p>17      Q. Okay. And is there a reason for that, or</p> <p>18      is that Metro policy that's just the one they bought?</p> <p>19      A. I believe it's just the one they bought. I</p> <p>20      don't know the internal.</p> <p>21      Q. By the way, why don't the body-worn cameras</p> <p>22      run at all times?</p> <p>23      A. I don't know.</p> <p>24      Q. Okay.</p> <p>25      A. But I mean, if you want to use the</p>

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<p>1 restroom, do you want your body cam running?</p> <p>2 Q. Good question.</p> <p>3 MR. LAGOMARSINO: I think there's some</p> <p>4 restroom activity in this case.</p> <p>5 MR. ANDERSON: In every case.</p> <p>6 BY MR. McNUTT:</p> <p>7 Q. Do you see this roped-off area?</p> <p>8 A. Yes.</p> <p>9 Q. Does that indicate to you that that's a</p> <p>10 restricted area of the casino?</p> <p>11 A. Yes.</p> <p>12 MR. LAGOMARSINO: What's the time stamp on</p> <p>13 that?</p> <p>14 MR. McNUTT: Ten seconds.</p> <p>15 (Playing video.)</p> <p>16 BY MR. McNUTT:</p> <p>17 Q. Do you see Tashi Farmer running through</p> <p>18 those chains?</p> <p>19 A. Yes.</p> <p>20 Q. And running down through the restricted</p> <p>21 area?</p> <p>22 A. Yes.</p> <p>23 Q. And you tested the radios all through this</p> <p>24 restricted area and had -- and you had conductivity?</p> <p>25 A. Yes. We tested it with our dispatchers</p>	<p>1 (Playing video.)</p> <p>2 BY MR. McNUTT:</p> <p>3 Q. So that's the first Taser. We're at 1:37.</p> <p>4 A. Uh-huh.</p> <p>5 Q. And it appears -- or we'll forget what it</p> <p>6 appears. Do you believe that neuromuscular</p> <p>7 incapacitation was achieved in that first ECD strike?</p> <p>8 A. I do, based on the way he fell.</p> <p>9 (Playing video.)</p> <p>10 BY MR. McNUTT:</p> <p>11 Q. So Officer Lopera has said, "Don't move.</p> <p>12 Don't move" in the six seconds since the MNI was</p> <p>13 achieved, correct?</p> <p>14 A. Yes.</p> <p>15 Q. Now, what is Tashi Farmer doing at 1:42 in</p> <p>16 the video, six seconds later?</p> <p>17 A. It looks like he is rolled up on his right</p> <p>18 arm.</p> <p>19 Q. Is that complying with the officer's</p> <p>20 command?</p> <p>21 A. Of "stop," no.</p> <p>22 Q. Or "don't move"?</p> <p>23 A. "Don't move."</p> <p>24 (Playing video.)</p> <p>25</p>
<p>1 through this whole -- we did this whole walkway or</p> <p>2 this whole --</p> <p>3 (Playing video.)</p> <p>4 BY MR. McNUTT:</p> <p>5 Q. So I'm going to speed it up here because we</p> <p>6 don't need to watch the run.</p> <p>7 So let me back up here.</p> <p>8 (Playing video.)</p> <p>9 BY MR. McNUTT:</p> <p>10 Q. So now we're outside?</p> <p>11 A. Yes, we are.</p> <p>12 (Playing video.)</p> <p>13 BY MR. McNUTT:</p> <p>14 Q. So per policy, Officer Lopera verbally</p> <p>15 warned, commanded the suspect stop, don't move or</p> <p>16 you're going to get tased, correct?</p> <p>17 A. Yes.</p> <p>18 Q. And that's what an officer should have done</p> <p>19 in that situation, correct?</p> <p>20 A. Yes.</p> <p>21 Q. Because Metro policy is such that they're</p> <p>22 supposed to give the suspect a warning, correct?</p> <p>23 A. When feasible, yes.</p> <p>24 Q. And do you think his warning was correct?</p> <p>25 A. Yes.</p>	<p>1 BY MR. McNUTT:</p> <p>2 Q. What's he doing now?</p> <p>3 A. It looks like he's adjusting his shoe.</p> <p>4 Q. Wasn't he sitting up?</p> <p>5 A. Yeah. He's sitting up adjusting his shoe.</p> <p>6 Q. Is that not moving?</p> <p>7 A. That's moving.</p> <p>8 Q. I mean if -- so if you told me stop, don't</p> <p>9 move, and I'm laying on my back and I sit up, would</p> <p>10 you think I'm complying with your commands?</p> <p>11 A. No.</p> <p>12 Q. Now, do you think that 1:36 to 1:44, that's</p> <p>13 eight seconds, do you think that's enough time for</p> <p>14 Tashi Farmer to comply?</p> <p>15 A. Yes, it is.</p> <p>16 Q. And he's not complying, correct?</p> <p>17 A. Correct.</p> <p>18 Q. So isn't it fair to say that it's</p> <p>19 authorized to give him a second ECD strike at this</p> <p>20 point?</p> <p>21 A. Yes.</p> <p>22 Q. So why did you just say that it wasn't</p> <p>23 authorized to give him a second ECD strike?</p> <p>24 A. For the first three second -- I'm sorry,</p> <p>25 for the first three Taser pulls until it's deemed</p>

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<p>1      ineffective by policy.</p> <p>2      Q. So you're okay with the first three ECD</p> <p>3      strikes?</p> <p>4      A. Right. Until it's -- yes, until it's</p> <p>5      deemed ineffective by policy, and then that's when</p> <p>6      Officer Lopera decides to move in and attempt</p> <p>7      touchstones.</p> <p>8      Q. So your position is it's okay for Officer</p> <p>9      Lopera to use the first three Taser strikes?</p> <p>10     A. So each time, by policy, each time that the</p> <p>11     trigger is pulled, he has to articulate the threat,</p> <p>12     which without going into his statement, he was asked,</p> <p>13     and based on his --</p> <p>14     Q. And I'm asking your position. I'm not</p> <p>15     asking anything in his statement or anything else.</p> <p>16     You've said that with this 8 seconds he's not</p> <p>17     complying, it's justified to give a second Taser</p> <p>18     strike?</p> <p>19     A. Based on my articulation.</p> <p>20     Q. That's what you just said?</p> <p>21     A. Based on -- yes. So what we did with</p> <p>22     Officer Lopera was we asked him those questions.</p> <p>23     Q. But we're not going into what he said. I'm</p> <p>24     asking your perception. You're the investigating</p> <p>25     officer. You reviewed this videotape as much as</p>	<p>1      A. He could use his left or right.</p> <p>2      Q. And do you think that's reasonable when</p> <p>3      you're engaged within ten feet of somebody that</p> <p>4      has -- that you believe is under the influence of a</p> <p>5      controlled substance, has run down a hallway, is</p> <p>6      trespassing through a casino, and now you believe was</p> <p>7      carjacking?</p> <p>8      A. Is it feasible? Yes, I believe it is</p> <p>9      feasible to get on the radio --</p> <p>10     Q. I said, "Is it reasonable?"</p> <p>11     A. Oh, reasonable. I'm sorry. Yes, I do.</p> <p>12     (Playing video.)</p> <p>13     BY MR. McNUTT:</p> <p>14     Q. There's the second pull, right?</p> <p>15     A. Is that the second or third? Yeah.</p> <p>16     Q. That was the second pull.</p> <p>17     A. Okay.</p> <p>18     MR. LAGOMARSINO: What time?</p> <p>19     THE WITNESS: 1:46.</p> <p>20     (Playing video.)</p> <p>21     BY MR. McNUTT:</p> <p>22     Q. Okay. So again, he's telling him not to</p> <p>23     move, correct?</p> <p>24     A. Yes.</p> <p>25     Q. And after he said "don't move," Tashi</p>
<p>1      anyone, correct?</p> <p>2      A. Uh-huh.</p> <p>3      Q. So I'm asking you to sit here. You earlier</p> <p>4      testified that the amount of seconds --</p> <p>5      A. In between.</p> <p>6      Q. Right, for someone to comply, it's a matter</p> <p>7      of seconds and it's a matter of distance and a matter</p> <p>8      of what's going on. So we've got --</p> <p>9      A. At this point in time Farmer is active</p> <p>10     resistance. And with that, ECD does not fall within</p> <p>11     that. He needs to be in an aggressive or aggravated</p> <p>12     aggressive resistance per our use of force model.</p> <p>13     And here he is only active. So for this</p> <p>14     second or third trigger pulls, no, they're not within</p> <p>15     our policy. The first one, yes, because of the</p> <p>16     allegation or the perception that he's about to</p> <p>17     carjack someone.</p> <p>18     Q. So what should Officer Lopera have done</p> <p>19     here after the first ECD strike and Tashi Farmer is</p> <p>20     not complying with his verbal commands?</p> <p>21     A. He should have gotten on the radio, let</p> <p>22     everyone know where he is at, assemble the resources,</p> <p>23     which is another way to deescalate the situation.</p> <p>24     Q. Which hand should he have used for his</p> <p>25     radio?</p>	<p>1      Farmer pulled his knees up as if he's going to get up</p> <p>2      again, correct?</p> <p>3      A. Yes.</p> <p>4      MR. LAGOMARSINO: Objection. Form.</p> <p>5      BY MR. McNUTT:</p> <p>6      Q. Is that complying with his commands not to</p> <p>7      move?</p> <p>8      A. No.</p> <p>9      Q. Have you ever deployed an ECD on a suspect?</p> <p>10     A. No.</p> <p>11     Q. Have you ever had an ECD deployed on you in</p> <p>12     training?</p> <p>13     A. Not in training, no. Or anywhere else, no.</p> <p>14     (Playing video.)</p> <p>15     BY MR. McNUTT:</p> <p>16     Q. So now at 1:57 we've got Tashi Farmer</p> <p>17     reaching behind his back where the probes are,</p> <p>18     correct?</p> <p>19     A. Yes.</p> <p>20     Q. Do you believe that he's reaching around to</p> <p>21     the probes?</p> <p>22     A. I do.</p> <p>23     Q. Do you believe that in that last seven or</p> <p>24     eight-second window Tashi Farmer was complying with</p> <p>25     the commands not to move?</p>

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<p>Page 214</p> <p>1 A. Not complying, no. 2 (Playing video.)</p> <p>3 BY MR. McNUTT: 4 Q. So at this point we're at 2:08, but about 5 two seconds ago, you saw Officer Lopera hand contact 6 Tashi Farmer's hand, correct? 7 A. Yes. 8 Q. Do you want me to back it up? 9 A. No. You're good. 10 Q. So Officer Lopera is in physical contact 11 with Tashi Farmer at this point, correct? 12 A. Yes. 13 (Playing video.)</p> <p>14 BY MR. McNUTT: 15 Q. Okay. So I want to ask you questions about 16 the amount of movement you're seeing here on the body 17 cam and whether or not you believe Tashi Farmer is 18 resisting being taken into custody. 19 (Playing video.)</p> <p>20 BY MR. McNUTT: 21 Q. So did you hear the "help me out"? 22 A. Yes. 23 Q. Is that Officer Lopera? 24 A. Yes. 25 Q. And do you know who he's asking help from?</p>	<p>Page 216</p> <p>1 A. Yes. 2 (Playing video.)</p> <p>3 BY MR. McNUTT: 4 Q. So we've got multiple commands being given 5 here, but not all of them by Officer Lopera, correct? 6 A. Correct. 7 Q. You've got "turn around," "give me your 8 arm," things of that nature, correct? 9 A. Yes. 10 Q. And so can you delineate or have you ever 11 delineated whether all of those were from Officer 12 Lopera? 13 A. We did ask him and we were able to -- 14 Q. Don't tell me what Officer Lopera said, but 15 I'm asking your perception as listening to the 16 different voices. 17 A. Yes. 18 Q. It's clear to you that there are different 19 voices, correct? 20 A. Yes. 21 Q. I mean, some of us listening to Officer 22 Lopera for a couple -- for a few seconds can tell 23 different pitch of a voice, right? 24 A. Yes. 25 (Playing video.)</p>
<p>Page 215</p> <p>1 A. I believe he's asking for help from the 2 security, the Venetian security officers. 3 Q. Is it your opinion that officer -- Metro 4 officers ask for help from civilians when they don't 5 actually need it? 6 MR. LAGOMARSINO: Objection. Form. 7 THE WITNESS: It depends. I personally 8 wouldn't.</p> <p>9 BY MR. McNUTT: 10 Q. Ever? 11 A. It would really just depend. It would have 12 to be a very dire situation to involve a citizen into 13 a use of force for me, but that's me. 14 Q. Sure. So if it's a dire situation, you 15 would ask for help? 16 A. Very dire, yes. 17 Q. And whether it's dire to one person versus 18 another person is a matter of opinion, correct? 19 A. Yes, it is. 20 Q. Okay. There's at least three people around 21 him at this point, right? 22 A. Yes. 23 Q. The man at the top, we see a white shirt, 24 and do you recognize that as being a Venetian 25 security guard?</p>	<p>Page 217</p> <p>1 BY MR. McNUTT: 2 Q. Did you hear that "okay, sir"?</p> <p>3 A. Yes. 4 Q. Do you think that was from Officer Lopera?</p> <p>5 A. No. 6 Q. Do you think that was from Tashi Farmer?</p> <p>7 A. Yes. 8 (Playing video.)</p> <p>9 BY MR. McNUTT: 10 Q. Did you hear that? 11 A. "On your stomach"?</p> <p>12 Q. No. 13 MR. LAGOMARSINO: Form. 14 BY MR. McNUTT: 15 Q. The punch that hit Officer Lopera's 16 body-worn camera? 17 MR. LAGOMARSINO: Form. 18 (Playing video.)</p> <p>19 BY MR. McNUTT: 20 Q. Right there. 21 A. I don't know what that is. That could be 22 the wind or the force of Officer Lopera coming down. 23 I don't know. 24 Q. The wind? 25 A. Yeah. Coming from -- coming in, yes.</p>

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<p>1 Q. Was it a windy night?      2 A. I have no idea. I don't know. I wasn't      3 down on the scene.      4 Q. That loud thud was the wind?      5 A. I can't confirm for certain that was a      6 strike by Tashi.      7 Q. In the other case, the plaintiff's use of      8 force expert acknowledged that was Tashi Farmer      9 striking Ken Lopera.</p> <p>10 MR. LAGOMARSINO: Objection. Form,      11 foundation, incomplete hypothetical.</p> <p>12 THE WITNESS: Okay.</p> <p>13 BY MR. McNUTT:</p> <p>14 Q. Do you disagree with that?      15 A. I don't know. I -- from here you can't      16 tell if that was a strike from Tashi Farmer or not.      17 Q. Well, you can hear an audible thud hit      18 Ken Lopera, correct?      19 A. You can hear something.      20 Q. Let's watch it again.</p> <p>21 MR. LAGOMARSINO: I'm sorry, Counsel.      22 Before you hit play, can you just indicate the time      23 for the record.</p> <p>24 (Playing video.)</p> <p>25</p>	<p>1 (Playing video.)      2 MR. McNUTT: I was trying to stop it but I      3 didn't.      4 BY MR. McNUTT:      5 Q. Okay. Do you see Tashi Farmer's hand?      6 A. Yeah.      7 Q. I wanted to get it to -- to --      8 (Playing video.)      9 BY MR. McNUTT:      10 Q. So are Tashi Farmer's hands restrained here      11 at 2:30?      12 A. It appears as though his right wrist is      13 restrained.      14 Q. By what?      15 A. It looks like Officer Lopera's left hand.      16 It's pinned against his stomach, Tashi's stomach.      17 Q. But there's no handcuffs on it, correct?      18 A. No, no handcuffs.      19 Q. Now, is his hand coming free?      20 A. It looks like Officer Lopera has at least      21 his fingers or his knuckles in his grip.      22 Q. But he has less of a grip than before?      23 A. Yes.      24 Q. Meaning the hand is coming free, correct?      25 A. Uh-huh. Yes.</p>
<p>1 BY MR. McNUTT:      2 Q. We're at 2:30. You would agree with me      3 that Tashi Farmer is resisting?      4 A. I believe that he's swatting -- yes, I      5 believe he's swatting away the ECD from the      6 touchstones.      7 Q. He's pulled his hand away from people,      8 correct?      9 A. Sure.      10 Q. He's resisting, he's rolling around,      11 correct?      12 A. Uh-huh.      13 Q. He's not complying with verbal commands,      14 correct?      15 A. Yes.      16 Q. You would agree with all those statements?      17 A. Yes.      18 Q. Now, let's listen to the, quote, wind.      19 (Playing video.)</p> <p>20 BY MR. McNUTT:      21 Q. You don't think that's a strike?      22 A. I don't see a strike. I can't confirm      23 whether it is or not.      24 Q. So we're going to go to -- I'll tell you in      25 just a second.</p>	<p>1 Q. Okay. It's the frame right before that.      2 (Playing video.)      3 BY MR. McNUTT:      4 Q. The question is do you ever see -- we'll      5 watch it at that speed. Do you ever see his hands      6 come free? Tashi Farmer's?      7 A. Yes.      8 Q. You do?      9 A. See his hands come free?      10 Q. Yes. His hands come free and slip this      11 grip. That's the question. And I want you to watch      12 it.      13 A. Okay.      14 (Playing video.)      15 BY MR. McNUTT:      16 Q. So did you see his hands that are free      17 there now because Ken Lopera's hands are up putting      18 away his ECD?      19 A. Looks like he's standing up, yes. He's      20 disengaged --      21 Q. So Tashi Farmer's hands are free at this      22 point, correct?      23 A. Assuming. I don't know if the security      24 officers have it.      25 Q. Did you see his hands free right up there?</p>

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<p>Page 222</p> <p>1 A. Yes. It looked like his left arm maybe. 2 (Playing video.)</p> <p>3 BY MR. McNUTT:</p> <p>4 Q. And then you heard the wind there smack 5 Officer Lopera and the body-worn camera?</p> <p>6 A. I heard the wind from Officer Lopera 7 possibly coming down just like he was in foot pursuit 8 prior to running up the ramp. The body camera caught 9 all that wind.</p> <p>10 Q. How exactly does the wind make that 11 sound?</p> <p>12 A. When you're having force come through. 13 Q. So where would the force be coming from?</p> <p>14 A. Officer Lopera's motion down. 15 (Playing video.)</p> <p>16 BY MR. McNUTT:</p> <p>17 Q. So Officer Lopera is now still trying to 18 obtain control over Tashi Farmer at 2:39, correct?</p> <p>19 A. Yes.</p> <p>20 Q. Does he have control of Tashi Farmer?</p> <p>21 A. No.</p> <p>22 Q. Is Tashi Farmer complying with Officer 23 Lopera's verbal commands?</p> <p>24 A. No. 25 (Playing video.)</p>	<p>Page 224</p> <p>1 Your position is that that was potentially 2 wind.</p> <p>3 MR. LAGOMARSINO: Objection. Form. 4 Misstates.</p> <p>5 BY MR. McNUTT:</p> <p>6 Q. If you agree with my position, and the 7 position of at least one other expert in the case and 8 another case, plaintiff's expert, if you agree with 9 me that that's a strike by Tashi Farmer against Ken 10 Lopera, doesn't that elevate the level of Tashi 11 Farmer's resistance?</p> <p>12 MR. LAGOMARSINO: Objection. Form, 13 foundation.</p> <p>14 THE WITNESS: By policy, yes. However, I 15 don't necessarily agree with that stance.</p> <p>16 BY MR. McNUTT:</p> <p>17 Q. So what would be the policy of elevation of 18 the force?</p> <p>19 A. Well, hypothetically, the elevation of 20 force had Tashi struck Officer Lopera would be an 21 aggressive resistance.</p> <p>22 Q. Now, irrespective of which level of 23 resistance it was, at the time of this incident, 24 utilizing a lateral vascular neck restraint was 25 authorized, correct?</p>
<p>Page 223</p> <p>1 BY MR. McNUTT:</p> <p>2 Q. So we hear the siren coming up and we now 3 know that that was Sergeant Crumrine, correct?</p> <p>4 A. Yes.</p> <p>5 Q. We're at 2:50. And does it appear to you 6 that Officer -- or excuse me, Tashi Farmer is still 7 resisting?</p> <p>8 A. He's not -- yeah, Officer Lopera does not 9 have control over him.</p> <p>10 Q. And Tashi Farmer is not complying with his 11 verbal commands, correct?</p> <p>12 A. Not complying with his verbal commands, 13 correct.</p> <p>14 (Playing video.)</p> <p>15 BY MR. McNUTT:</p> <p>16 Q. And then we're at 2:59. And then from 17 this vantage point, it kind of goes black because 18 Officer Lopera's body-worn camera is up against 19 Tashi Farmer, correct? And we know from the other 20 events that this is when Sergeant Crumrine appears, 21 correct?</p> <p>22 A. Yes.</p> <p>23 Q. Now, going back to around the 2:34 mark, 24 the question I posed to you was whether or not you 25 saw or heard force or a strike hit Officer Lopera?</p>	<p>Page 225</p> <p>1 A. Yes. Excuse me. Yes.</p> <p>2 MR. McNUTT: I have no further questions.</p> <p>3 MR. LAGOMARSINO: I have some questions. 4 How long have we been on the record, 5 Mr. Videographer?</p> <p>6 THE VIDEOGRAPHER: Total?</p> <p>7 MR. LAGOMARSINO: Just for this last 8 segment.</p> <p>9 THE VIDEOGRAPHER: Since 3:20, so about an 10 hour and 20 minutes.</p> <p>11 MR. LAGOMARSINO: Okay. I just want to 12 take a very quick five-minute break and organize the 13 questions and follow up.</p> <p>14 THE VIDEOGRAPHER: The time is 15 approximately 4:39 p.m. We are going off the record. 16 (A recess was taken from 4:39 p.m. 17 to 4:55 p.m.)</p> <p>18 THE VIDEOGRAPHER: The time is 19 approximately 4:55 p.m. We are back on the record.</p> <p>20 MR. LAGOMARSINO: Okay. Just before we 21 start questioning, I'm going to object to the last 22 line of questioning only to the extent that there 23 were questions about information on the video with no 24 reference to timestamps. There were some references 25 to timestamps, but not a lot of them.</p>

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<p>1                    FURTHER EXAMINATION      2 BY MR. LAGOMARSINO:      3        Q. So you heard --      4        MR. McNUTT: I'll make note that you      5        watched the entire video.      6 BY MR. LAGOMARSINO:      7        Q. You heard various questions about whether      8        Tashi was compliant or not, correct?      9        A. Yes.      10      Q. And in answer to a lot of those questions,      11      you stated that he wasn't compliant, correct?      12      A. Yes.      13      Q. Are you aware of police reports that      14      indicate that after review of the video and the      15      evidence, that in many instances, Tashi was not given      16      enough time to comply?      17      A. Am I aware?      18      Q. Yeah.      19      A. I'm sorry, can you rephrase that? Sorry.      20      Q. Are you aware of other police reports in      21      this case, either from FIT or other officers, that      22      indicate after review of the timeline, that Tashi was      23      not given enough time to comply with Officer Lopera's      24      commands?      25      A. I'm not aware.</p>	<p>1                    ECDs, correct?      2        MR. McNUTT: Objection. Form.      3        THE WITNESS: Yes.      4 BY MR. LAGOMARSINO:      5        Q. And you're trained that a natural reaction      6        from being tased with probes is to try to remove      7        those probes, correct?      8        A. I don't know if it's a natural reaction.      9        Q. Are you trained that it's a common reaction      10      that people try to remove those probes?      11      A. Yes.      12      Q. If you were tased with probes, would you      13      attempt to remove those from your body?      14      MR. ANDERSON: Objection. Form.      15      THE WITNESS: I would probably just stay      16      still.      17 BY MR. LAGOMARSINO:      18      Q. But you've never been tased, correct?      19      A. Correct.      20      Q. Now, in the beginning of the video, you      21      were asked about whether there were certain      22      indicators as to whether Tashi was going into a      23      restricted area, correct?      24      A. Yes.      25      Q. And those were slip and fall cones,</p>
<p>1                    Q. Are you aware of police reports that      2        indicate that Tashi was given confusing commands by      3        Officer Lopera?      4        MR. McNUTT: Objection. Form.      5        THE WITNESS: And are you asking other than      6        my report or other reports?      7 BY MR. LAGOMARSINO:      8        Q. Yes, other than your report.      9        A. I don't know.      10      Q. After three rounds of tases were given,      11      what were options that -- what were all the options      12      that were available to Officer Lopera?      13      A. What were all the options available?      14      Q. Yes, since he was supposed to stop tasing      15      after three rounds.      16      A. Well, he's supposed to deem the ECD      17      ineffective and re-holster and transition to another      18      tool that he could use based on his perception.      19      Q. You're trained on the ECD, correct?      20      A. Yes.      21      Q. And you're trained that the ECD is painful      22      to people who receive those probes, correct?      23      A. Yes.      24      Q. And you heard, in fact, Tashi screaming or      25      wailing in the video after being struck with those</p>	<p>1                    correct?      2        A. Yes. The yellow cones, yeah, yellow cones.      3        Q. And that was -- anything on the yellow      4        cones or the yellow tape indicate that it was a,      5        quote, unquote, restricted area?      6        A. No.      7        Q. And then Mr. McNutt made reference to some      8        chains that Tashi ran through.      9        Did you see any chains in the video?      10      A. Yes. They connected the yellow cones in      11      front of the door.      12      Q. And they were actual metal chains?      13      A. No, they were just plastic chains.      14      Q. Have you reviewed -- Mr. McNutt made      15      reference to alleged opinions and testimony from      16      different experts in a different case. And then you      17      answered some of those questions.      18      Have you ever used the testimony or      19      opinions from the experts in the other case?      20      A. No.      21      Q. So you're relying on what those experts      22      said based on what Mr. McNutt said they said,      23      correct?      24      A. Yes.      25      Q. You heard some questions about whether</p>

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<p>1 Tashi should have deescalated.      2 Do you remember that question?      3 A. Yes.      4 Q. Was Lopera, to your knowledge, in the      5 department long enough to be trained about      6 deescalation?      7 A. Yes.      8 Q. In your experience with regular citizens,      9 are they trained to deescalate?      10 A. Are citizens trained to deescalate?      11 Q. Right.      12 A. No. Not that I know of.      13 Q. In reviewing the beginning of the video,      14 Tashi starts running from Lopera, correct?      15 A. Yes.      16 Q. And that's because Lopera reaches out to      17 grab Tashi, correct?      18 A. I don't know why Tashi ran from Officer      19 Lopera.      20 Q. Did you see Lopera reach out to grab Tashi      21 before Tashi started running?      22 A. Yes.      23 Q. Are officers permitted -- strike that.      24 At the point where Officer Lopera went to      25 grab Tashi, was there anything that you saw on the</p>	<p>1 BY MR. LAGOMARSINO:      2 Q. Does the sole fact of a citizen running      3 away from an officer mean that the citizen is on      4 drugs?      5 A. No.      6 Q. You made a comment, I think, in response to      7 a misleading question, in my view, as to whether      8 Tashi could have been arrested for carjacking.      9 Do you believe that based on your review of      10 the video of the overhead surveillance and the body      11 cam footage, that Tashi should have been arrested for      12 carjacking?      13 A. In my belief, what I put in the report was      14 the two views and what they depicted, along with      15 Officer Lopera's perception. And that's what I put      16 in my report.      17 Q. And did you believe that he could have been      18 arrested for carjacking based on all that?      19 A. I would leave that up to the FIT team to      20 make that determination.      21 Q. Sitting here today, do you believe --      22 strike that.      23 Sitting here today, would you have arrested      24 him for carjacking?      25 A. Would I?</p>
<p style="text-align: center;">Page 231</p> <p>1 video, at least without the benefit of sound, that      2 indicated that Lopera had the right to grab Tashi?      3 MR. McNUTT: Objection. Form.      4 THE WITNESS: I don't know. And that's      5 what -- some of the questions we had for      6 Officer Lopera.      7 BY MR. LAGOMARSINO:      8 Q. Are you aware -- I asked this before but      9 it's been a long day.      10 So were you part of the process of pulling      11 Tashi's cell records?      12 A. No, I was not.      13 Q. Okay. Did anyone pull Officer Lopera's      14 cell records, to your knowledge?      15 A. I believe so. But I don't know. I believe      16 it's the FIT team.      17 Q. Do you know if they downloaded Officer      18 Lopera's data from his cell phone?      19 A. I have no idea.      20 Q. Lopera turned off his camera while being      21 questioned about the incident, correct?      22 MR. McNUTT: Objection. Form.      23 THE WITNESS: Later on in the incident,      24 yes.      25</p>	<p>1 Q. Right.      2 A. No.      3 Q. You made a comment regarding 99 percent of      4 citizens and I didn't get the whole thing. You used      5 the word -- the number 99 percent. What was that in      6 reference to?      7 A. I believe the -- it was just an estimate,      8 but on the weekends, the officers will come in      9 contact with someone who is under the influence of      10 alcohol, narcotics here in Vegas.      11 Q. And maybe it was like a little bit of      12 hyperbole, but a lot of people --      13 A. A lot of people.      14 Q. -- are under the influence, right?      15 A. Yes.      16 Q. And was Lopera a drug recognition expert?      17 A. I would have to look at his training      18 records, but I don't believe so.      19 Q. And does the simple fact that somebody is      20 sweating on a May night mean that they're under the      21 influence and can be arrested for being under the      22 influence?      23 A. No.      24 Q. And if somebody has some glassy eyes and is      25 approaching an officer about possibly being chased by</p>

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<p>1 somebody mean that the officer can detain that      2 person?</p> <p>3 A. No.</p> <p>4 Q. If officers arrested everybody that      5 appeared to be under the influence on the Strip,      6 there wouldn't be a lot of tourists coming to Vegas      7 anymore, correct?</p> <p>8 A. I don't know. Probably not.</p> <p>9 Q. Now, you were asked some questions about      10 whether and when Officer Lopera loosened his grip on      11 Tashi.</p> <p>12 And I want to kind of get a definition of      13 "loosened." Are you defining loosen as releasing the      14 grip?</p> <p>15 A. Releasing the pressure.</p> <p>16 Q. Okay. And that's releasing his arm      17 completely?</p> <p>18 A. No. It's releasing the pressure that's      19 between his bicep and forearm, the pressure that goes      20 along the carotid artery.</p> <p>21 Q. And when did that take place in the      22 timeline that Lopera released or loosened his grip on      23 Tashi in that manner?</p> <p>24 A. I don't know when.</p> <p>25 Q. For the crime of resisting a police</p>	<p>1 Q. Was Lopera being soft and gentle with      2 Tashi?</p> <p>3 A. No.</p> <p>4 Q. Is it a natural reaction based on your      5 training of somebody who is getting punched in the      6 face and the head to lift their hands if they're      7 getting hit?</p> <p>8 A. Yes.</p> <p>9 Q. Do you expect citizens to comply with      10 officers if they're getting hit in the face for no      11 reason?</p> <p>12 A. No.</p> <p>13 MR. LAGOMARSINO: I have to go pull the      14 record that -- I don't know if the witness can      15 remember. I want to try to refresh her recollection      16 so it will just take me two minutes about the      17 confusing and inconsistent command line of      18 questioning. Just take a quick break.</p> <p>19 THE VIDEOGRAPHER: The time is      20 approximately 5:08 p.m. We are going off the record.      21 (A recess was taken from 5:08 p.m.      22 to 5:20 p.m.)</p> <p>23 THE VIDEOGRAPHER: The time is      24 approximately 5:20 p.m. We are back on the record.</p>
<p style="text-align: center;">Page 235</p> <p>1 officer, you have to have what's known as a predicate      2 crime, correct?</p> <p>3 A. You know, that's a good question. I don't      4 know, actually.</p> <p>5 Q. In other words, if -- can a police officer      6 with no basis walk up to a citizen, arrest the      7 citizen, and then charges -- if the citizen resists,      8 charge that citizen with resisting?</p> <p>9 A. No.</p> <p>10 Q. You heard questions from Mr. McNutt about      11 Tashi not being hit that hard kind of in the      12 beginning of his questioning.</p> <p>13 Do you remember those -- that line of      14 questioning?</p> <p>15 A. Yes.</p> <p>16 Q. Was Tashi being caressed?</p> <p>17 MR. MCNUTT: Objection. Form.</p> <p>18 THE WITNESS: I don't know.</p> <p>19 BY MR. LAGOMARSINO:</p> <p>20 Q. By Lopera in the video?</p> <p>21 A. Was he being caressed?</p> <p>22 Q. If it wasn't hard, was it soft?</p> <p>23 A. I don't know.</p> <p>24 Q. Was Lopera softly tapping him?</p> <p>25 A. I wouldn't call it tapping.</p>	<p style="text-align: center;">Page 237</p> <p>1 BY MR. LAGOMARSINO:</p> <p>2 Q. So we're placing in front of you a document      3 that just for the record is online at the Las Vegas      4 Review-Journal's website through Scribd, S-c-r-i-b-d,      5 after the incident.</p> <p>6 And it's redacted. It's my understanding      7 that Mr. Anderson will produce this document.</p> <p>8 Have you ever seen this document before?</p> <p>9 A. I don't believe I have.</p> <p>10 Q. Let's go through it briefly.</p> <p>11 A. Okay.</p> <p>12 Q. Have you seen the timeline on page 3      13 before?</p> <p>14 A. Yes.</p> <p>15 Q. Where have you seen this timeline before?</p> <p>16 A. So this timeline may have came from the FIT      17 report that's produced.</p> <p>18 Q. So at 1:39, Officer Lopera yelled, "Don't      19 move." And Farmer replied, "Okay."</p> <p>20 Does that -- somebody saying "okay" to a      21 command indicate to you that they're complying?</p> <p>22 A. It doesn't necessarily mean they're      23 complying. I think they're acknowledging the verbal      24 command.</p> <p>25 Q. At 1:45 it says, "Officer Lopera yelled get</p>

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<p>1       on your stomach. Farmer replied I will, I will,  2       please. And then Farmer fell backward to the  3       ground."</p> <p>4       Does somebody saying, "I will, I will,  5       please" indicate to you that somebody is complying  6       with an order?</p> <p>7       A. Again, I don't know if he's complying, but  8       it sounds like he's acknowledging the verbal command.</p> <p>9       Q. Okay. It says here at 1:57, Officer  10      Lopera, so this is one minute and 57 seconds into the  11      body cam. Officer Lopera yelled, "Get on your  12      stomach." And then at two minutes Farmer rolled onto  13      his stomach, then to his back.</p> <p>14      Does that indicate to you that he was  15      trying to comply?</p> <p>16      A. That he was trying to comply?</p> <p>17      Q. Yes.</p> <p>18      A. He rolled on his stomach and rolled back  19      on -- then rolled to his back.</p> <p>20      Q. He had Taser probes on him, right?</p> <p>21      A. Yes.</p> <p>22      Q. So does that indicate to you he's  23      complying, not complying or indeterminate?</p> <p>24      MR. McNUTT: Object to this line of  25      questioning inasmuch as you're asking the witness to</p>	<p>1       "Get on your stomach." At 2:04, seven seconds later,  2       Farmer rolls to his stomach, right?</p> <p>3       A. Yes. Per this timeline, yes.</p> <p>4       Q. And does that indicate compliance to you?</p> <p>5       A. Yes.</p> <p>6       Q. And three seconds later, Farmer says,  7       "Okay, okay, okay, sir."</p> <p>8       Does that indicate compliance to you?</p> <p>9       A. Again, I don't know what his actions are at  10      this time.</p> <p>11      Q. Okay. Then at 2:20 it says security  12      arrived. They give Farmer verbal commands and a  13      guard grabbed onto Farmer's arms. Farmer said, "I  14      will."</p> <p>15      Do you believe it could be confusing to  16      somebody who is getting multiple commands from  17      multiple people?</p> <p>18      A. Yes.</p> <p>19      Q. Now, security is giving commands to say  20      stop, turn around, correct? At 2:22?</p> <p>21      A. Per this timeline, that's what it says,  22      yeah.</p> <p>23      Q. And that command was not given to Farmer  24      from Lopera, correct?</p> <p>25      A. According to this timeline, it says</p>
<p style="text-align: center;">Page 239</p> <p>1       interpret someone's interpretation of the actual  2       video.</p> <p>3       BY MR. LAGOMARSINO:</p> <p>4       Q. All right. So let's do some foundational  5       questions.</p> <p>6       You're the lead investigator on the case,  7       right?</p> <p>8       A. Yes.</p> <p>9       Q. And you're reviewing all the  10      interpretations from all the witnesses, correct?</p> <p>11      A. Yes.</p> <p>12      Q. That's part of your job, right?</p> <p>13      A. Yes.</p> <p>14      Q. So as part of your job, you make  15      recommendations based on what people have interpreted  16      from the videos, correct?</p> <p>17      A. If you're referencing FIT being a witness,  18      I don't consider them a witness. They did an  19      independent investigation.</p> <p>20      Q. Was this timeline used in the CIRT report?</p> <p>21      A. No. We have our own timeline.</p> <p>22      Q. Was the FIT report provided to the CIRT  23      board?</p> <p>24      A. The FIT report was -- yes, it was.</p> <p>25      Q. So basically at 1:57, again Lopera says,</p>	<p style="text-align: center;">Page 241</p> <p>1       security gave that.</p> <p>2       Q. But prior to this, according to the  3       timeline, Lopera didn't say, "Stop, turn around,"  4       correct?</p> <p>5       A. No.</p> <p>6       Q. That's incorrect?</p> <p>7       A. No. Yeah. Officer Lopera did not say,  8       "Stop, turn around."</p> <p>9       Q. So that's a different command, correct?</p> <p>10      A. Yes.</p> <p>11      Q. Okay. So then at 2:33, Lopera holsters his  12      ECD and says, "Hands behind your back."</p> <p>13      Farmer replied, "I'm trying to." Right?</p> <p>14      Does that indicate compliance?</p> <p>15      A. Possible indication.</p> <p>16      Q. You reviewed the videos probably multiple  17      times, correct?</p> <p>18      A. Yes.</p> <p>19      Q. How many times would you say you reviewed  20      Lopera's body cam video by way of an estimate?</p> <p>21      A. Probably 40 times, 50 times.</p> <p>22      Q. And you never came to the conclusion that  23      Farmer struck Lopera, correct?</p> <p>24      A. Correct.</p> <p>25      Q. And there's nothing -- there's no</p>

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<p>1 conclusion in here that Farmer struck Lopera,      2 correct?</p> <p>3 A. I haven't read this all the way through.</p> <p>4 Q. And there's some timelines here. So going      5 to page 7.</p> <p>6 The third paragraph says, "As Officer      7 Lopera began to chase Farmer, he had no reasonable      8 suspicion or probable cause to believe that Farmer      9 had been involved in any criminal conduct."</p> <p>10 Do you disagree, agree, or have no opinion      11 on that statement?</p> <p>12 A. I have no opinion.</p> <p>13 Q. So then it says, "Officer Lopera began      14 issuing verbal commands to Farmer; however, the      15 longest time between cycles of the ECD was six      16 seconds."</p> <p>17 Do you agree with that statement? Or do      18 you not know without looking at the report?</p> <p>19 A. Not without looking at my report in      20 comparison.</p> <p>21 Q. It says, "Officer Lopera told Farmer to get      22 on his stomach several times, but never gave Farmer a      23 reasonable opportunity to comply with commands before      24 cycling the ECD again."</p> <p>25 Do you agree, disagree, or have no opinion?</p>	<p>1 A. If the officer can articulate that, yeah.</p> <p>2 Q. Okay. Was the restricted area that Tashi      3 Farmer ran down, do you think that was an obvious      4 restricted area?</p> <p>5 A. Yes.</p> <p>6 Q. I'm not going to -- I don't want to know      7 what you discussed with your lawyer. Mr. Lagomarsino      8 asked you whether or not you had read the other      9 expert's report from the other case that I referenced      10 when I was asking you the questions about the punch      11 to Ken Lopera. Do you remember that?</p> <p>12 A. Yes, I do.</p> <p>13 Q. Did you discuss with your lawyer the fact      14 of the other expert's testimony?</p> <p>15 A. The facts, no.</p> <p>16 Q. Did Officer Lopera have a legitimate law      17 enforcement purpose in pursuing Tashi Farmer?</p> <p>18 A. Yes.</p> <p>19 Q. Isn't it true that someone can say they are      20 complying with an officer's commands but physically      21 not be complying with an officer's commands?</p> <p>22 A. Yes.</p> <p>23 Q. Are you trained to focus on what the      24 suspect is physically doing or what they are telling      25 you verbally?</p>
<p style="text-align: center;">Page 243</p> <p>1 A. I agree.</p> <p>2 Q. And then it says, "Officer Lopera's verbal      3 commands also contradicted each other telling Farmer      4 don't move, followed by a command to get on your      5 stomach."</p> <p>6 Do you agree, disagree or no opinion on      7 that statement?</p> <p>8 A. Agree.</p> <p>9 MR. LAGOMARSINO: No further questions.</p> <p>10 MR. McNUTT: I have a few follow-up.</p> <p>12 FURTHER EXAMINATION</p> <p>13 BY MR. McNUTT:</p> <p>14 Q. You testified that per Metro policy you      15 could use a Taser three times, correct?</p> <p>16 A. Yes.</p> <p>17 Q. Are you aware that there are instances      18 where you can use it in certain circumstances more      19 than three times?</p> <p>20 A. I believe by policy it states that you      21 would have to articulate those reasons why and be in      22 extreme circumstances.</p> <p>23 Q. Right. So if an officer -- Sergeant Bland      24 said if an officer is alone, they could use it more      25 than three times, correct?</p>	<p style="text-align: center;">Page 245</p> <p>1 A. Physical movements and then obviously both,      2 but physical.</p> <p>3 Q. But physical trumps, correct?</p> <p>4 A. Yes.</p> <p>5 Q. Because hands can kill you but words can't,      6 correct?</p> <p>7 A. Yes.</p> <p>8 MR. McNUTT: No further questions.</p> <p>9 MR. ANDERSON: I have nothing.</p> <p>10 MR. LAGOMARSINO: No questions.</p> <p>11 THE VIDEOGRAPHER: This concludes the video      12 deposition of Kasey Kirkegard.</p> <p>13 The original media of today's testimony      14 will remain in the custody of Las Vegas Legal Video.</p> <p>15 The time is approximately 5:32 p.m., and we      16 are going off the record.      17 (Exhibit 8 was marked for identification.)</p> <p>19 (The videotaped deposition was      20 concluded at 5:32 p.m.)</p> <p>21 - - -</p> <p>22</p> <p>23</p> <p>24</p> <p>25</p>

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\* \* \* Videotaped Deposition \* \* \*

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PAGE	LINE	CHANGE	REASON
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\* \* \* \* \*

I, DETECTIVE KASEY KIRKEGARD, deponent herein,  
do hereby certify and declare under penalty of perjury  
the within and foregoing transcription to be my  
deposition in said action; that I have read,  
corrected and do hereby affix my signature to said  
deposition.

DETECTIVE KASEY KIRKEGARD  
Deponent

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CERTIFICATE OF REPORTER

I, the undersigned, a Certified Shorthand  
Reporter of the State of Nevada, do hereby certify:

That the foregoing proceedings were taken  
before me at the time and place herein set forth;  
that any witnesses in the foregoing proceedings,  
prior to testifying, were duly sworn; that a record  
of the proceedings was made by me using machine  
shorthand which was thereafter transcribed under my  
direction; that the foregoing transcript is a true  
record of the testimony given to the best of my  
ability.

Further, that before completion of the  
proceedings, review of the transcript [ X ] was  
[ ] was not requested pursuant to NRCP 30(e).

I further certify I am neither financially  
interested in the action, nor a relative or employee  
of any attorney or party to this action.

IN WITNESS WHEREOF, I have this date  
subscribed my name.

Dated: February 12, 2019

GALE SALERNO, RMR, CCR #542